WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

House Bill No. 2845

(By Delegates Williams, Moye, D. Poling, Shaver, Skaff, Hamilton and Rowan)

Passed March 12, 2011

In Effect Ninety Days From Passage
AN ACT to amend and reenact §20-2-27 and §20-2-28 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §20-2-42x, all relating to senior resident lifetime hunting, fishing and trapping license and fee of $25; and allowing persons who are sixty-five years of age before January 1, 2012, to remain exempt from the purchase of the license.

Be it enacted by the Legislature of West Virginia:

That §20-2-27 and §20-2-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §20-2-42x, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

Except as otherwise provided by law, no resident who has reached his or her fifteenth birthday and who has not reached his or her sixty-fifth birthday before January 1, 2012, and no nonresident shall at any time take, hunt, pursue, trap for, kill or chase any wild animals, wild birds, or fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit and then only during the respective open seasons, except that a nonresident who has not reached his or her fifteenth birthday may fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit. A person under the age of fifteen years shall not hunt or chase any wild animals or wild birds upon lands of another unless accompanied by a licensed adult.

A resident or nonresident member of any club, organization or association or persons owning or leasing a game preserve or fish preserve, plant or pond in this state shall not hunt or fish therein without first securing a license or permit as required by law: Provided, That resident landowners or their resident children, or bona fide resident tenants of land, may, without a permit or license, hunt and fish on their own land during open seasons in accordance with laws and rules applying to such hunting and fishing unless the lands have been designated as a wildlife refuge or preserve.

Licenses and permits shall be of the kinds and classes set forth in this article and shall be conditioned upon the payment of the fees established for the licenses and permits.

§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, 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 obtaining a fishing license. 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, may hunt, trap or fish in season in West Virginia without obtaining a license. Leave or furlough papers shall serve in lieu of any 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 before January 1, 2012, is not required to have a license to hunt, trap or fish during the legal seasons in West Virginia, but in lieu of the license the 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, but the hunting or fishing shall be
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35 confined to the fish and waterfowl of the river proper and not
36 on its tributaries: Provided, That the state of Maryland shall
37 first enter into a reciprocal agreement with the director
38 extending a like privilege of hunting and fishing on the
39 Potomac River from the Maryland banks of the river to
40 licensed residents of West Virginia without requiring the
41 residents to obtain Maryland hunting and fishing licenses.

(f) Residents of the state of Ohio who carry hunting or
42 fishing licenses valid in that state may hunt or fish on the
43 Ohio River or from the West Virginia banks of the river
44 without obtaining licenses, but the hunting or fishing shall be
45 confined to fish and waterfowl of the river proper and to
46 points on West Virginia tributaries and embayments
47 identified by the director: Provided, That the state of Ohio
48 shall first enter into a reciprocal agreement with the director
49 extending a like privilege of hunting and fishing from the
50 Ohio banks of the river to licensed residents of West Virginia
51 without requiring the residents to obtain Ohio hunting and
52 fishing licenses.

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

(h) Any disabled veteran who is a resident of West
66 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 the 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. 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. 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. 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 fly fish in the state for catch and release only without obtaining a fishing license while under the supervision of an instructor authorized by the school.

§20-2-42x. Class XS resident senior hunting, fishing and trapping license.

(a) A Class XS license is a resident senior hunting, fishing and trapping license and entitles the licensee to hunt and trap for all legal species of wild animals and wild birds, to fish for all legal species of fish and to take frogs in all
counties of the state, except as prohibited by the rules of the
Director or Natural Resources Commission and when
additional licenses, stamps or permits are required. No
additional fees shall be required of Class XS licensees for a
Class CS stamp or a Class O stamp.

(b) A Class XS licensee shall be entitled to participate
with the same privileges and subject to the same restrictions
as a youth hunter in any special youth deer season established
by the Natural Resources Commission pursuant to the
provisions of subdivision (b)(7), section 17, article one of this
chapter.

(c) A Class XS license is required for residents or aliens
lawfully residing in the United States who have been
domiciled residents of West Virginia for a period of thirty
consecutive days or more immediately prior to the date of
their application for a license and who reach sixty-five years
of age on or after January 1, 2012.

(d) A Class XS license may be voluntarily purchased by
residents or aliens lawfully residing in the United States and
who have been domiciled residents of West Virginia for a
period of thirty consecutive days or more immediately prior
to the date of their application for a license and who reach
sixty-five years of age on or before December 31, 2011,
entitling those persons to the same privileges and subjecting
them to the same restrictions as any Class XS licensee.

(e) The fee for the Class XS license is $25.

(f) A Class XS license is valid for the lifetime of the
purchaser without payment of additional fees for the
privileges associated with the Class X license, Class CS
stamp and the Class O stamp. This is a base license and does
not require the purchase of a prerequisite license to
participate in the activities specified in this section, except as noted.

(g) The Division of Natural Resources shall coordinate with the Department of Motor Vehicles to adopt and implement a program whereby the senior hunting license provided for in this section shall be identified by an appropriate decal, sticker or other marking to be affixed to the drivers' or chauffeurs' license of such person.

(h) On or before July 1 annually, the Division of Natural Resources shall file an annual report with the joint committee on government and finance describing its implementation of the senior license program as set forth in this section. The report shall include the number of licenses issued, any increase in state funds as a result of the senior license created by this section, any federal funds received as a result of the implementation of the senior license created by this section and the intended use of the those funds.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Originating in the House.

To take effect ninety days from passage.

The within is approved this the 4th day of April, 2011.
PRESENTED TO THE GOVERNOR

MAR 31 2011

Time 11:30 am EST