

1 **ENROLLED**

2 **H. B. 2845**

3  
4 (By Delegates Williams, Moye, D. Poling, Shaver,  
5 Skaff, Hamilton and Rowan)

6  
7 [Passed March 12, 2011; in effect ninety days from passage.]  
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10 AN ACT to amend and reenact §20-2-27 and §20-2-28 of the Code of  
11 West Virginia, 1931, as amended; and to amend said code by  
12 adding thereto a new section, designated §20-2-42x, all  
13 relating to senior resident lifetime hunting, fishing and  
14 trapping license and fee of \$25; and allowing persons who are  
15 sixty-five years of age before January 1, 2012, to remain  
16 exempt from the purchase of the license.

17 *Be it enacted by the Legislature of West Virginia:*

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

22 **ARTICLE 2. WILDLIFE RESOURCES.**

23 **§20-2-27. Necessity for license.**

24 Except as otherwise provided by law, no resident who has  
25 reached his or her fifteenth birthday and who has not reached his

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

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

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

1 **§20-2-28. When licenses or permits not required.**

2 Persons in the following categories are not required to obtain  
3 licenses or permits as indicated:

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

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

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

22 (d) In accordance with the provisions of section twenty-seven  
23 of this article, any resident sixty-five years of age or older  
24 before January 1, 2012, is not required to have a license to hunt,  
25 trap or fish during the legal seasons in West Virginia, but in lieu

1 of the license the person shall at all times while hunting,  
2 trapping or fishing carry on his or her person a valid West  
3 Virginia driver's license or nondriver identification card issued  
4 by the Division of Motor Vehicles.

5 (e) Residents of the state of Maryland who carry hunting or  
6 fishing licenses valid in that state may hunt or fish from the West  
7 Virginia banks of the Potomac River without obtaining licenses, but  
8 the hunting or fishing shall be confined to the fish and waterfowl  
9 of the river proper and not on its tributaries: *Provided*, That the  
10 state of Maryland shall first enter into a reciprocal agreement  
11 with the director extending a like privilege of hunting and fishing  
12 on the Potomac River from the Maryland banks of the river to  
13 licensed residents of West Virginia without requiring the residents  
14 to obtain Maryland hunting and fishing licenses.

15 (f) Residents of the state of Ohio who carry hunting or  
16 fishing licenses valid in that state may hunt or fish on the Ohio  
17 River or from the West Virginia banks of the river without  
18 obtaining licenses, but the hunting or fishing shall be confined to  
19 fish and waterfowl of the river proper and to points on West  
20 Virginia tributaries and embayments identified by the director:  
21 *Provided*, That the state of Ohio shall first enter into a  
22 reciprocal agreement with the director extending a like privilege  
23 of hunting and fishing from the Ohio banks of the river to licensed  
24 residents of West Virginia without requiring the residents to  
25 obtain Ohio hunting and fishing licenses.

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

12           (h) Any disabled veteran who is a resident of West Virginia  
13 and who, as certified to by the Commissioner of Motor Vehicles, is  
14 eligible to be exempt from the payment of any fee on account of  
15 registration of any motor vehicle owned by the disabled veteran as  
16 provided in section eight, article ten, chapter seventeen-a of this  
17 code shall be permitted to hunt, trap or fish in this state without  
18 obtaining a license. The director shall propose rules for  
19 legislative approval in accordance with the provisions of article  
20 three, chapter twenty-nine-a of this code setting forth the  
21 procedure for the certification of the disabled veteran, manner of  
22 applying for and receiving the certification and requirements as to  
23 identification while the disabled veteran is hunting, trapping or  
24 fishing.

25           (i) Any resident or inpatient in any state mental health,

1 health or benevolent institution or facility may fish in this  
2 state, under proper supervision of the institution involved,  
3 without obtaining a fishing license. A written statement or  
4 certificate signed by the superintendent of the mental health,  
5 health or benevolent institution or facility in which the resident  
6 or inpatient, as the case may be, is institutionalized shall serve  
7 in lieu of a fishing license and shall be carried on the person of  
8 the resident or inpatient at all times while he or she is fishing  
9 in this state.

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

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

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

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

20 (A) Self-care;

21 (B) Receptive and expressive language;

22 (C) Learning;

23 (D) Mobility;

24 (E) Self-direction;

25 (F) Capacity for independent living; and

1 (G) Economic self-sufficiency; and

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

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

10 **§20-2-42x. Class XS resident senior hunting, fishing and trapping**  
11 **license.**

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

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

25 (c) A Class XS license is required for residents or aliens

1 lawfully residing in the United States who have been domiciled  
2 residents of West Virginia for a period of thirty consecutive days  
3 or more immediately prior to the date of their application for a  
4 license and who reach sixty-five years of age on or after January  
5 1, 2012.

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

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

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

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

1 such person.

2       (h) On or before July 1 annually, the Division of Natural  
3 Resources shall file an annual report with the joint committee on  
4 government and finance describing its implementation of the senior  
5 license program as set forth in this section. The report shall  
6 include the number of licenses issued, any increase in state funds  
7 as a result of the senior license created by this section, any  
8 federal funds received as a result of the implementation of the  
9 senior license created by this section and the intended use of the  
10 those funds.