

1 **H. B. 4539**

2
3 (By Delegates J. Miller, Cowles, Householder, Howell,
4 Rowan, Stephens and Shaver)

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6 [Introduced February 15, 2012; referred to the
7 Committee on Senior Citizens Issues then Finance.]

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10 A BILL to amend and reenact §20-2-28 and §20-2-42x of the Code of
11 West Virginia, 1931, as amended, all relating to exempting
12 resident seniors aged sixty-five years and older from
13 purchasing hunting, fishing and trapping stamps or permits
14 issued by the Division of Natural Resources under article two,
15 chapter twenty of the West Virginia Code.

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

17 That §20-2-28 and §20-2-42x of the Code of West Virginia,
18 1931, as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 2. WILDLIFE RESOURCES.**

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

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

23 (a) Bona fide resident landowners or their resident children,
24 or resident parents, or bona fide resident tenants of the land may
25 hunt, trap or fish on their own land during open season in

1 accordance with the laws and rules applying to the hunting,
2 trapping and fishing without obtaining a license, unless the lands
3 have been designated as a wildlife refuge or preserve.

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

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

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

1 to purchase any hunting, fishing or trapping stamp or permit issued
2 by the division under this article two.

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

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

24 (g) Any resident of West Virginia who was honorably discharged

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

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

24 (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;

1 (F) Capacity for independent living; and

2 (G) Economic self-sufficiency; and

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

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

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

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

23 (b) A Class XS licensee shall be entitled to participate with
24 the same privileges and subject to the same restrictions as a youth

1 hunter in any special youth deer season established by the Natural
2 Resources Commission pursuant to the provisions of subdivision
3 (b) (7), section 17, article one of this chapter.

4 (c) A Class XS license is required for residents or aliens
5 lawfully residing in the United States who have been domiciled
6 residents of West Virginia for a period of thirty consecutive days
7 or more immediately prior to the date of their application for a
8 license and who reach sixty-five years of age on or after January
9 1, 2012.

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

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

19 (f) A Class XS license is valid for the lifetime of the
20 purchaser without payment of additional fees for ~~the privileges~~
21 ~~associated with the Class X license, Class CS stamp and the Class~~
22 ~~Ø stamp~~ any hunting, fishing or trapping stamp or permit issued by
23 the division under this article two.. This is a base license and
24 does not require the purchase of a prerequisite license to

1 participate in the activities specified in this section, except as
2 noted.

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

9 (h) On or before July 1 annually, the Division of Natural
10 Resources shall file an annual report with the Joint Committee on
11 Government and Finance describing its implementation of the senior
12 license program as set forth in this section. The report shall
13 include the number of licenses issued, any increase in state funds
14 as a result of the senior license created by this section, any
15 federal funds received as a result of the implementation of the
16 senior license created by this section and the intended use of
17 those funds.

NOTE: The purpose of this bill is to exempt seniors aged sixty-five years and older from purchasing hunting, fishing and trapping stamps or permits issued by the Division of Natural Resources under article two, chapter twenty of the West Virginia Code.

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