

Senate Bill No. 341

(By Senators Barnes, Kessler (Acting President), Beach, Boley, Browning, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Unger, Williams, Wills, Yost and Jenkins)

[Introduced January 31, 2011; referred to the Committee on Natural Resources; and then to the Committee on Finance.]

A BILL to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to providing that a person under eighteen years of age or a veteran, along with accompanying family members, participating in a day trip sponsored by a nonprofit organization providing rehabilitative therapy to those participants is exempted from purchasing a hunting or fishing license.

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.

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

- (a) Bona fide resident landowners or their resident children,

1 or resident parents, or bona fide resident tenants of such land may
2 hunt, trap or fish on their own land during open season in
3 accordance with the laws and regulations applying to such hunting,
4 trapping and fishing without obtaining a license to do so unless
5 such lands have been designated as a wildlife refuge or preserve.

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

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

20 (d) In accordance with the provisions of section twenty-seven
21 of this article, any resident sixty-five years of age or older is
22 not required to have a license to hunt, trap or fish during the
23 legal seasons in West Virginia, but in lieu of such license any
24 such person shall at all times while hunting, trapping or fishing
25 carry on his or her person a valid West Virginia driver's license

1 or nondriver identification card issued by the Division of Motor
2 Vehicles.

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 to
6 do so, but the hunting or fishing shall be confined to the fish and
7 waterfowl of the river proper and not on its tributaries:
8 *Provided*, That the state of Maryland shall first enter into a
9 reciprocal agreement with the director extending a like privilege
10 of hunting and fishing on the Potomac River from the Maryland banks
11 of said river to licensed residents of West Virginia without
12 requiring said residents to obtain Maryland hunting and fishing
13 licenses.

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

25 (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
3 service-connected disability as certified to by the Veterans
4 Administration shall be permitted to hunt, trap or fish in this
5 state without obtaining a license therefor. The director shall
6 propose rules for legislative approval in accordance with the
7 provisions of article three, chapter twenty-nine-a of this code
8 setting forth the procedure for the certification of the veteran,
9 manner of applying for and receiving the certification and
10 requirements as to identification while said veteran is hunting,
11 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 such 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 therefor. 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 to do so. A written statement
4 or 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 to do so. As
13 used in this section, "developmentally disabled" means a person
14 with a severe, 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: (A) Self-care;
20 (B) receptive and expressive language; (C) learning; (D) mobility;
21 (E) self-direction; (F) capacity for independent living; and (G)
22 economic self-sufficiency; and

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

1 (k) A person under eighteen years of age or a veteran, along
2 with accompanying family members, participating in a day trip
3 sponsored by a nonprofit organization providing rehabilitative
4 therapy to those participants is exempted from purchasing a hunting
5 or fishing license. The director shall propose rules for
6 legislative approval in accordance with the provisions of article
7 three, chapter twenty-nine-a of this code to implement the
8 provisions of this subsection.

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

NOTE: The purpose of this bill is to provide that a person under eighteen years of age or a veteran, along with accompanying family members, participating in a day trip sponsored by a non-profit organization providing rehabilitative therapy to those participants is exempted from purchasing a hunting or fishing license.

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