

**CHAPTER 20. CONDITIONS AND REQUIREMENTS UNDER  
WHICH DOMESTIC ANIMALS MAY BE OFFERED AS PRIZES**

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**Authority**

The provisions of this Chapter 20 issued under the Crimes Code, 18 Pa.C.S. § 5511.1, unless otherwise noted.

**Source**

The provisions of this Chapter 20 adopted August 30, 1996, effective August 31, 1996, 26 Pa.B. 4218, unless otherwise noted.

**§ 20.1. Purpose.**

This chapter, which is authorized under 18 Pa.C.S. § 5511.1(b)(2) (relating to live animals as prizes prohibited), establishes the conditions under which an agricultural, educational or vocational program may conduct a game at which a domestic animal may be offered or given away as a prize. It also establishes requirements governing how a game shall be conducted.

**§ 20.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The act of April 29, 1994 (P. L. 142, No. 24), which amended 18 Pa.C.S. § 5511(j) (relating to cruelty to animals) and established 18 Pa.C.S. § 5511.1 (relating to live animals as prizes prohibited).

*Agricultural program*—A program having the cultivation of soil or water, the production of plants, the production of domestic animals or the production of some agricultural product as its primary purpose.

*Department*—The Department of Agriculture of the Commonwealth.

*Domestic animal*—A dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

*Educational program*—A program having the instruction of its participants in agriculture, subjects related to agriculture, the sciences or rural community leadership as its primary purpose.

*Fish*—A live animal member of the superclass *Pisces*.

*Game*—A drawing, lottery, contest, sweepstakes or similar activity engaged in for diversion, amusement or profit, regardless of whether its outcome is determined by the skill of the participant, random chance or some combination of the two. The term does not include an exhibition or competition of agricultural animals for agricultural vocational purposes.

*Person*—An individual, partnership, sole proprietorship, corporation or business entity.

*Prize*—An article or other consideration, such as a coupon or discount, awarded to a game contestant or any other person as a result of a contestant's participation in a particular game, regardless of whether the awarding of the prize is contingent upon achieving some level of success in the game or upon mere participation in the game.

*Sanction*—The action taken by the Department when the Secretary or a designee issues a written notice that a particular program is an agricultural, educational or vocational program to which the exception in 18 Pa.C.S. § 5511.1(b)(1) applies.

*Secretary*—The Secretary of the Department.

*Sponsor*—The relationship of the Department to an entity to which it awards grants under authority of the Agricultural and Rural Youth Development Act (3 P. S. §§ 1601—1609), the Pennsylvania Agricultural Fair Act (3 P. S. §§ 1501—1508) or other statutory authority by which the Department may award grants or extend loans to agricultural, educational or vocational programs.

*Vocational program*—A program having the preparation of its participants for careers in agriculture or the agricultural sciences as its primary purpose.

### **§ 20.3. Requirement of sponsorship or sanction.**

A person may not give or offer to give away any live animal, except fish, as a prize in a game unless the animal is a domestic animal and is offered or given away in connection with an agricultural, educational or vocational program sponsored or sanctioned by the Department.

### **§ 20.4. Obtaining status as a program sponsored by the Department.**

An agricultural, educational or vocational program shall be considered sponsored by the Department for purposes of the act, without the requirement that it obtain written confirmation of this status from the Department in advance of conducting a game at which a domestic animal is to be offered or given away as a prize, if the following apply:

- (1) The program has been sponsored by the Department at any time during the year preceding the date upon which the domestic animal is to be offered or given away as a prize in a game.
- (2) The program is the entity that actually conducts the game and offers or gives away the live domestic animal.

**§ 20.5. Circumstances under which sanction is required.**

An agricultural, educational or vocational program that is not sponsored by the Department may apply for and obtain written confirmation that it is sanctioned by the Department for purposes of the act prior to conducting any game at which a domestic animal is to be offered or given away as a prize.

**§ 20.6. Applying for designation as a program sanctioned by the Department.**

(a) *Application required.* An agricultural, educational or vocational program seeking the designation that it is sanctioned by the Department for purposes of the act shall submit a written application for the designation to the Department.

(b) *Obtaining an application.* A person may obtain an application form by mailing a written request to the address in subsection (d).

(c) *Contents of application.* The application form shall contain:

(1) The name and address of the person who proposes to offer or give away a domestic animal as a prize in a game to be held in connection with an agricultural, educational or vocational program.

(2) A description of the agricultural, educational or vocational activities conducted or promoted by the program described in paragraph (1).

(3) A statement identifying any entity that shall receive any portion of the proceeds of the game and setting forth the percentage of the proceeds that the entity shall receive.

(4) A statement setting forth the date, time and location of both the agricultural, educational or vocational program and the game at which it is proposed that any domestic animal be offered or given away as a prize.

(5) A description of the species and number of domestic animals that will be offered or given away as a prize.

(6) A copy of the written instructions for proper care of the domestic animal that would be issued to any person to whom the domestic animal is given.

(d) *Delivery of application.* The application form shall be mailed or delivered to the following address:

Bureau of Animal Industry  
Division of Regulation and Compliance  
Agriculture Building, Room 403  
2301 North Cameron Street  
Harrisburg, PA 17110

(e) *Completeness review.* The Department will review each application for completeness. If the application is incomplete, or if additional information is required, the Department will, within 10 days of receiving the application, notify the applicant of this deficiency. The notification may be accomplished by telephone or by mailing a written notice.

(f) *Determination.* Within 20 days of receiving a complete application, the Department will issue to the applicant written notice of whether the agricultural, educational or vocational program described in the application is sanctioned by the Department for purposes of the act. If the written notice states that the program is sanctioned by the Department, it shall also set forth an expiration date for this sanction.

(g) *Reconsideration.* An applicant may request that the Secretary conduct a hearing to review and reconsider any decision issued under subsection (f). The hearing request shall be in writing, and be delivered to the Department within 25 days from the date the Department's decision was mailed to the applicant. Upon receipt of a timely hearing request, the Secretary will designate a hearing examiner to take testimony, consider evidence and submit a proposed adjudication for the Secretary's consideration on the issue of whether a modification of the original decision is warranted. The Secretary will then issue a final adjudication.

**§ 20.7. Circumstances under which a game is conducted by a program sanctioned by the Department.**

A game may be conducted by a program sanctioned by the Department if one of the following applies:

- (1) The game is conducted by the agricultural, educational program sanctioned by the Department and the program receives the proceeds of the game.
- (2) The game is conducted by some other entity, such as a vendor or subcontractor, and the agricultural, educational or vocational program sanctioned by the Department receives at least 90% of the proceeds of the game.

**§ 20.8. Conditions and requirements of domestic animal offerings.**

(a) *General.* A person who offers or gives away a domestic animal as a prize in a game conducted in connection with an agricultural, educational or vocational program sponsored or sanctioned by the Department shall adhere to the following conditions and requirements:

- (1) *Unweaned animals.* A domestic animal may not be offered or given away unless it is weaned. An animal is weaned if it accepts sufficient food and water to meet its nutritional needs from a source other than a parent.
- (2) *Veterinarian's certification.* A domestic animal may not be offered or given away unless it is accompanied by written certification from a licensed veterinarian that it has been examined and found free of evidence of disease or physical defect no more than 10 days prior to the offering or giving away. The person offering or giving away the domestic animal shall retain a copy of this veterinarian certification for 2 years from the date the domestic animal was offered or given away.
- (3) *Instructions for handling and care.* A domestic animal may not be offered or given away unless it is accompanied by a written statement setting forth its origin, age, sex and instructions for its proper care. The person offer-

ing or giving away the domestic animal shall retain a copy of this statement for 2 years from the date the domestic animal was offered or given away.

(4) *Persons under 18 years of age.* A domestic animal may not be given away to a person under 18 years of age unless the person giving away the animal first obtains the written consent of a parent or guardian of the prospective recipient of the animal. The person offering or giving away the domestic animal shall retain a copy of this written consent for 2 years from the date the domestic animal was given away.

(b) *Violation of conditions and requirements.* If the Department has sponsored or sanctioned an agricultural, educational or vocational program, that sponsorship or sanction will be considered void if the person offering or giving away a domestic animal as a prize in a game held in connection with the program violates a condition in subsection (a). If a person violates a condition in subsection (a), the statutory exception in 18 Pa.C.S. § 5511.1(b) (relating to live animals as prizes prohibited) does not apply, and the person offering or giving away the domestic animal shall be subject to prosecution under the act. The violation will be prosecuted as a summary criminal offense punishable by a fine of not more than \$250.

(c) *Dog Law.* The requirements of this chapter do not supersede or supplant duties or responsibilities imposed under authority of the Dog Law (3 P. S. §§ 459-101—459-1205).

### § 20.9. Liability.

The Department will not be liable or otherwise responsible for the condition of a domestic animal offered or given away in accordance with the act and this chapter.

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