

# PROPOSED RULEMAKING

## DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 21]

### Dog Licensure

The Department of Agriculture (Department), under the specific authority conferred by sections 201 and 903 of the Dog Law (act) (3 P. S. §§ 459-201 and 459-903), hereby proposes to amend §§ 21.1, 21.4, 21.51–21.53, 21.55 and 21.57. Section 101 of the act (3 P. S. § 459-101) states this is an act "... relating to dogs, regulating the keeping of dogs; providing for the licensing of dogs ...; providing for the abandonment of animals" and "providing for ... liability of the owner or keeper of dogs for such damages." The Department has a duty to assure the proper and humane licensure of dogs and a means by which a person may obtain reimbursement for certain dog-caused damages. Section 201 of the act confers upon the Department the power to promulgate regulations regarding the lifetime licensure of dogs. Section 903 of the act provides for penalties when the act has not set forth a specific penalty for a violation of that section of the act.

#### *Background*

The lifetime licensure provisions of the current regulations require that a dog be tattooed with a number assigned by the county treasurer. While these regulations were consistent with the requirements set forth by the General Assembly, those requirements have been changed to ensure more humane treatment of dogs by allowing lifetime licensure of dogs through the implantation of a microchip. The proposed amendments to the lifetime licensure regulations will allow the use of a microchip as an alternative to the tattoo identification. This alternative provides a more humane method of identification.

In the interest of continuing to carry out the policy of the act, which is to assure the health, safety and humane treatment of dogs, and to assure the regulations are consistent with the act, the Department proposes to amend these regulations to effectuate the changes.

The major features of the proposed amendments are summarized as follows:

#### *Summary*

##### *General Provisions*

Section 21.1 (relating to definitions) will add the definitions of "microchip" and "releasing agency" and amend the definition of "Secretary" to provide clarity to the regulations.

Section 21.4 (relating to penalties) will be reserved. The act sets forth the penalties to be imposed for violations of specific sections of the act. There is no need to repeat the penalties in the regulation.

##### *Licensure*

Section 21.51 (relating to lifetime dog license issuance) has been deleted and new language has been added to allow the use of either tattooing or microchipping. The microchip and tattoo numbers are obtained from the county treasurer or agent, who will issue the lifetime license and tag.

Section 21.52 (relating to recordkeeping for lifetime dog licenses) sets forth the requirement that the county treasurer or agent shall maintain a databank of all lifetime licenses. The county treasurer or agent shall maintain a record of lifetime licenses for 20 years.

Section 21.53 (relating to transfer of lifetime dog licenses) requires the county treasurer to transmit any changes in residence to the Department so that the Department's databank remains current.

Section 21.55 (relating to breeding kennel license) will be reserved because, under the act, there is no longer a distinction between a kennel license and a breeding kennel license.

Section 21.57 (relating to kennel tags) will be amended to provide that the Department, rather than the county treasurer, shall issue a maximum of ten kennel tags. The State warden may recommend that more tags are needed.

#### *Fiscal Impact*

##### *Commonwealth*

The proposed amendments will impose minimal costs and have minimal fiscal impact upon the Commonwealth. The proposed amendments will not increase or decrease the regulatory workload. The Department will have to organize a databank to maintain a record of lifetime license holders.

##### *Political Subdivisions*

The proposed amendments will impose minimal costs and have a minimal fiscal impact upon political subdivisions. The county treasurer shall transmit a record of lifetime licenses monthly. The county treasurer currently transmits a monthly record of all dog licenses sold, therefore the requirement to transmit a record of lifetime licenses sold will not impose an additional burden on the county treasurer. The county treasurer already keeps a record of lifetime licenses for 15 years; the proposed amendments extend this requirement to 20 years.

##### *Private Sector*

The proposed amendments will impose no additional costs on private sector organizations or individuals.

##### *General Public*

The proposed amendments will impose no additional costs and have no fiscal impact on the general public. Dog owners that wish to have a lifetime license are already required to have the dog tattooed. The proposed amendments allow the use of a microchip as an alternative form of identification.

##### *Paperwork Requirements*

The proposed amendments will not result in an appreciable increase in paperwork. The Department will be required to maintain a databank of lifetime license holders.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 21, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Agricultural and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the

Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

*Comment Period*

The public comment period for the proposed amendments is 30 days from the date of publication in the *Pennsylvania Bulletin*.

*Contact Person*

Further information is available by contacting the Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Richard Burd (717) 787-4833.

*Effective Date*

These proposed amendments will become effective upon final-form publication in the *Pennsylvania Bulletin*.

SAMUEL E. HAYES, JR.,  
*Secretary*

**Fiscal Note:** 2-135. (1) General Fund; (2) Implementing Year 2001-02 is \$0; (3) 1st Succeeding Year 2002-03 is \$0; 2nd Succeeding Year 2003-04 is \$30,000; 3rd Succeeding Year 2004-05 is \$30,000; 4th Succeeding Year 2005-06 is \$30,000; 5th Succeeding Year 2006-07 is \$30,000; (4) Fiscal Year 2000-01—n/a; Fiscal Year 1999-00—n/a; Fiscal Year 1998-99—n/a; (7) General Government Operations; (8) recommends adoption.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART II. DOG LAW ENFORCEMENT BUREAU**

**CHAPTER 21. GENERAL PROVISIONS; KENNELS; LICENSURE; DOG-CAUSED DAMAGES**

**GENERAL PROVISIONS**

**§ 21.1. Definitions.**

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

\* \* \* \* \*

**Microchip**—A passive transducer encapsulated in a biocompatible material activated by a 125 kilohertz scanner, or any similar device approved by the Department.

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**Releasing agency**—A public or private pound, animal shelter, humane society, society for prevention of cruelty to animals or other similar entity that releases a dog or cat for adoption.

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**Secretary**—The Secretary of the Department or a person to whom authority has been delegated by the Secretary.

**§ 21.4. [ Penalties ] (Reserved).**

[ A person found in violation of any provision of this chapter shall be guilty of one of the following:

(1) A summary offense for the first and second convictions under this chapter or the act within a 1-year period.

(2) A misdemeanor of the third degree for a third or subsequent violation under this chapter or the act within 1 year of conviction for the first and second violations. ]

**LICENSURE**

**§ 21.51. Lifetime dog license issuance.**

(a) [ The applicant shall complete a lifetime dog license application and present it and the appropriate fee to the County Treasurer or his agent in the applicant's county of residence, either in person or by mailing an application and including a self-addressed, stamped envelope. ] **Application.** The applicant shall complete a lifetime dog license application and present it and the appropriate fee to the county treasurer or an agent in the applicant's county of residence, either in person or by mailing an application.

(b) [ The County Treasurer or his agent shall assign a tattoo-license number and place the number on a tattoo certificate. The number shall be at least six digits, the first two digits designating the county. For example, Adams County numbers shall begin with 01; York County, with 67. The county number shall be followed by at least four digits assigned by the County Treasurer or his agent. For example, the first tattoo number assigned by Lehigh County will be 390001; the tenth number will be 390010; the one hundredth number will be 390100. The dog owner may have the letters "PA" tattooed on the dog immediately preceding the assigned number issued by the County Treasurer or his agent. ] **County treasurer:**

(1) Upon receipt of a lifetime dog license application, the county treasurer shall complete the lifetime license from information on the lifetime dog license application.

(2) The county treasurer or an agent shall assign a tattoo-license number or a microchip-license number and place the number on a tattoo/microchip license certificate.

(3) The tattoo/microchip license certificate shall identify the dog by breed, date of birth, sex, color and markings, shall contain the name, address and phone number of the dog's owner and the year of licensure and shall set forth the tattoo-license or microchip-license number that was issued.

(4) The tattoo-license number or the microchip-license number and all other information except the part to be filled in by the tattooist or the person implanting the microchip shall be completed by the county treasurer or an agent on the tattoo/microchip certificate before the certificate is given to the applicant.

(5) The county treasurer or his agent shall collect the applicable fee for the lifetime license before issuing the tattoo/microchip certificate to the applicant.

(6) The county treasurer or an agent shall hold the lifetime license and the accompanying tag until the applicant returns the completed tattoo/microchip certificate.

(7) The tattoo-license number or microchip-license number issued by the county treasurer shall be at least six digits, the first two digits designating the county. For example, Adams County numbers shall begin with 01; York County, with 67.

(8) The county number shall be followed by at least four digits assigned by the county treasurer or his agent. For example, the first tattoo number or microchip number assigned by Lehigh County will be 390001.

(c) [The tattoo-license number and all other information except the part to be filled in by the tattooist shall be completed by the County Treasurer or his agent on the tattooing certificate before the certificate is given to the applicant. The lifetime license shall also be completed by the County Treasurer or his agent from information on the lifetime application at that time. The County Treasurer or his agent shall collect the applicable fee for the lifetime license before issuing the tattoo certificate to the applicant.] *Owner:*

(1) The owner shall arrange to have the dog tattooed or a microchip implanted at the owner's expense with the number assigned by the county treasurer in the manner prescribed in subsection (b). The tattooist or the person implanting the microchip shall complete the tattoo/microchip certificate. The number tattooed on the dog shall be the same number as the assigned tattoo-license number set forth on the tattoo/microchip license certificate.

(2) When the dog owner is seeking a tattoo-license, the dog owner may have the letters "PA" tattooed on the dog immediately preceding the assigned number issued by the county treasurer or his agent. The tattoo shall be on the right hind leg on the inner part of the upper thigh.

(3) When a microchip-license number is issued, the person implanting the microchip shall record the identifying number on the microchip on the tattoo/microchip license certificate.

(4) The microchip implanted shall be of a type consistent with § 21.1 (relating to the definitions) and shall be implanted in accordance with the manufacturer's specifications.

(d) [The owner shall arrange to have the dog tattooed at the owner's expense with the number assigned by the County Treasurer in the manner prescribed by subsection (b). The dog shall be tattooed on the right hind leg on the inner part of the upper thigh. The tattooist shall complete the tattooing certificate.] *Issuance of lifetime license.*

(1) Upon receipt of the properly completed tattoo/microchip certificate, the county treasurer shall issue the lifetime license and tag to the dog owner. The number on the tag that is issued shall be the same number as the assigned tattoo-license number

or microchip license number set forth on the tattoo/microchip license certificate.

(2) Upon issuing the lifetime license to the applicant, the county treasurer shall record the microchip-license number and the corresponding microchip identification number.

(3) If the applicant has not returned the completed tattoo/microchip certificate to the county treasurer or an agent within 60 days, the license fee shall be refunded to the applicant by the county treasurer or his agent. The 50¢ issuance fee shall be retained by the county treasurer for his service in forwarding the refund to the applicant. The tattoo-license number or microchip-license number may not be reissued to future applicants other than the original applicant. If the applicant has not reapplied for a lifetime license within 30 days of the date of the refund, the lifetime license shall be voided.

(e) [The County Treasurer or his agent shall hold the lifetime license and the accompanying tag until the applicant returns the completed tattooing certificate. The County Treasurer then shall issue the license and tag. If the applicant has not returned the completed tattooing certificate to the County Treasurer or his agent within 60 days, the license fee shall be refunded to the applicant by the County Treasurer or his agent. The 50¢ issuance fee shall be retained by the County Treasurer for his service in forwarding the refund to the applicant. The tattoo-license number shall not be reissued to future applicants other than the original applicant. If the applicant has not reapplied for a lifetime license within 30 days of the date of the refund, the lifetime license shall be voided.] *Record retention.* Copies of the lifetime application shall be distributed as indicated on the application, with the county treasurer's copy behind filed in sequence. A monthly record of lifetime license information shall be mailed or electronically transmitted to the Department.

[ (f) Copies of the lifetime license form and tattooing certificate shall be distributed as indicated on the copies with the County Treasurer's copy being filed in sequence. ]

#### § 21.52. Recordkeeping for lifetime dog licenses.

The county treasurer or an agent shall mail or electronically transmit a monthly record of lifetime licenses information to the Department. The [County Treasurer] county treasurer or an agent shall keep a record of all lifetime dog licenses issued for [15] 20 years.

#### § 21.53. Transfer of lifetime dog licenses.

The issuance of a new license and tag is not required when transferring a lifetime dog license to a new owner or when the owner changes his residence to another county. However, the transfer or change in residence shall be recorded by the issuing [County Treasurer] county treasurer and, when applicable, by the [County Treasurer] county treasurer in the county to which the dog has been moved. The county treasurer shall mail or electronically transmit a record of the transfer or change in residence to the Department.

§ 21.55. [ Breeding kennel license ] (Reserved).

[ For the purposes of enforcing the act, when it is not apparent whether a kennel should be licensed as a private kennel or breeding kennel, the kennel shall be licensed as a breeding kennel if the owner or operator keeps, harbors, shelters, sells, gives away or transfers a cumulative total of 101 or more dogs in the preceding calendar year. ]

§ 21.57. Kennel tags.

The [ County Treasurer shall ] Department will issue a maximum of ten kennel tags to [ the ] a kennel owner or operator unless [ authorization is provided by ] the State Dog Warden for the county recommends that a higher quantity is required.

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