
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2195 Session of
2008

INTRODUCED BY LEACH, BELFANTI, BENNINGTON, BRENNAN, COHEN,
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SIPTROTH, K. SMITH, SWANGER, THOMAS AND VITALI, MAY 27, 2008

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MAY 27, 2008

AN ACT

1 Prohibiting the administration of certain antimicrobial agents
2 in agriculture; providing for inspection and testing of
3 agricultural operations, for enforcement and for reporting by
4 agricultural operations; and making related repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Safe Food and
9 Safe Families Act.

10 Section 2. Findings and purpose.

11 The General Assembly finds and declares as follows:

12 (1) Several antimicrobial agents, including, but not
13 limited to, penicillin, tetracycline, erythromycin,
14 lincomycin, bacitracin and virginiamycin are used in, or are
15 related to, antimicrobial agents used for the treatment of
16 infectious diseases in humans and are also used in animal
17 feed or otherwise administered to animals for nontherapeutic

1 purposes, such as the promotion of animal growth.

2 (2) Mounting expert opinion and government actions show
3 that using antimicrobial agents in animal feed contributes to
4 the increasing prevalence of antimicrobial-resistant
5 pathogenic bacteria, such as campylobacter, enterococci,
6 staphylococci and salmonella, that can cause hard-to-treat
7 infections in humans. Populations that are especially
8 vulnerable to antimicrobial resistance include children,
9 senior citizens, persons with cancer, persons with HIV/AIDS,
10 persons with diabetes and persons who are otherwise receiving
11 immunosuppressive therapy, including therapy after organ
12 transplants. Moreover, farmers and their families have been
13 shown to be at very high risk of exposure to antimicrobial-
14 resistant pathogens through the use of these drugs in animal
15 feeds.

16 (3) The Swann Committee, formed in the United Kingdom in
17 1969 to examine the public health effects of the use of
18 antimicrobial agents in food-producing animals, recommended
19 that antimicrobial agents be divided into "feed" and
20 "therapeutic" classes of drugs and that drugs used
21 therapeutically in humans or animals not be included in the
22 "feed" class.

23 (4) The United States Food and Drug Administration
24 proposed in 1977 to ban the subtherapeutic use of penicillin
25 and tetracycline, but the ban was never put into effect.

26 (5) The World Health Organization recommended in 1997
27 that antimicrobial agents that are used to treat humans
28 should not be used to promote animal growth.

29 (6) The National Academy of Sciences, in a July 1998
30 report prepared at the request of the United States

1 Department of Agriculture and the Food and Drug
2 Administration, concluded that "there is a link between the
3 use of antibiotics in food animals, the development of
4 bacterial resistance to these drugs and human disease."

5 (7) Individual European countries, including the United
6 Kingdom, Denmark, Finland and Sweden, banned the use of
7 certain antimicrobial agents in animal feed. Subsequently, in
8 December 1998, health ministers for the European Union
9 countries voted to ban the four remaining human-use
10 antimicrobial agents that were still being administered in
11 the European Union to promote animal growth. The ban by the
12 European Union on using virginiamycin, tylosin, spiramycin
13 and bacitracin in animal feed became effective for the 15
14 member states on July 1, 1999.

15 (8) An April 1999 study by the United States General
16 Accounting Office concluded that resistant strains of
17 salmonella, campylobacter and E. coli cause illness or
18 disease in humans and are linked to the use of antimicrobial
19 agents in animals.

20 (9) The American Medical Association passed a resolution
21 in June 2001 opposing the use of antimicrobial agents in
22 livestock except when needed to treat an animal's illness.

23 (10) Recent scientific medical studies from the
24 Netherlands and Canada suggest that animal agriculture,
25 specifically swine facilities, may be a source of
26 methicillin-resistant staphylococcus aureus (MRSA) strains
27 that are entering the human population via workers at those
28 facilities.

29 (11) More than 350 other medical, public health,
30 environmental and sustainable agriculture organizations have

1 publicly opposed the subtherapeutic use of antimicrobial
2 agents in livestock, including the American College of
3 Preventive Medicine, the American Nurses Association, the
4 Pennsylvania State Nurses Association, the American Public
5 Health Association, the American Academy of Pediatrics, the
6 Ambulatory Pediatric Association, the National Association of
7 County and City Health Officials, the American Academy of
8 Family Physicians, the American Geriatrics Society, the
9 Breast Cancer Fund, the Catholic Health Association of the
10 United States, the Infectious Disease Society of America, the
11 Leukemia and Lymphoma Society, the National Alliance of State
12 and Territorial AIDS Directors, the Physicians for Social
13 Responsibility, the Center for Science in the Public
14 Interest, the Center for Food Safety, the National Campaign
15 for Sustainable Agriculture, American Rivers, the Chesapeake
16 Bay Foundation, Citizens for Pennsylvania's Future, Clean
17 Water Action, the Environmental Defense Fund, the National
18 Environmental Trust, the Natural Resources Defense Council
19 and the Sierra Club.

20 (12) The Food and Drug Administration in July 2005
21 withdrew its approval for the use of fluoroquinolone
22 antimicrobial agents for nontherapeutic administration to
23 poultry because of concerns over the development of
24 antibiotic-resistant bacteria.

25 (13) States have the right to enact laws more
26 restrictive than Federal laws concerning antimicrobial
27 agents.

28 (14) A Federal court of appeals in 1978 held that a
29 municipality could inspect meat delivery vehicles for
30 violation of its public health ordinances even though the

1 United States Department of Agriculture has the sole
2 responsibility for the inspection of meat plants.

3 (15) The United States Supreme Court in 1985 unanimously
4 upheld local regulations of blood plasma centers that were
5 stricter than the Food and Drug Administration's regulations
6 governing the safety of blood plasma.

7 (16) Because a Federal district court in 1986 held that
8 regulations issued by the Food and Drug Administration and
9 the United States Department of Agriculture prevented the
10 court from requiring that a veal producer label that its
11 calves had been fed subtherapeutic levels of antibiotic
12 drugs, consumers in this Commonwealth do not now have a
13 reliable way of knowing whether the food they buy contains
14 bacteria that is resistant to antimicrobial agents.

15 (b) Purpose.--The purpose of this act is to protect the
16 health and safety of the citizens of this Commonwealth by
17 prohibiting the use of certain antimicrobial agents in
18 agriculture in nontherapeutic amounts or as growth promoters.

19 Section 3. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Administer." To give an antimicrobial agent to an animal by
24 implantation, ingestion or injection or by addition to feed.

25 "Agricultural operation." The management and use of farming
26 resources for the production of livestock, poultry or fish.

27 "Animal." Any livestock, poultry or fish.

28 "Antimicrobial agent." Any drug, chemical or other substance
29 that either kills or slows the growth of a microbe. The term
30 includes, but is not limited to, antimicrobial drugs that kill

1 bacteria, antiviral agents that kill viruses, antifungal agents
2 that kill fungi and antiparasitic drugs that kill parasites. The
3 term includes both naturally occurring substances, such as
4 penicillins, and synthetic agents designed for the same purpose.

5 "Antimicrobial resistance." The ability of a microbe to
6 survive treatment by antimicrobial agents resulting from changes
7 that reduce or eliminate the effectiveness of drugs, chemicals
8 or other agents to cure or prevent infections in animals or
9 humans.

10 "Departement." The Department of Health of the Commonwealth.

11 "Land grant institution." An educational institution located
12 within this Commonwealth that has received a grant of public
13 land made by the Congress of the United States for the support
14 of education pursuant to the Morrill Act (12 Stat. 503, 7 U.S.C.
15 § 301 et seq.).

16 "Microbe." A unicellular organism or virus that is so small
17 that it can be seen only by use of a microscope.

18 "Nontherapeutic amount." An amount of an antimicrobial agent
19 that constitutes a dose below that necessary to kill a pathogen.

20 "Organism." Any living thing. The term includes humans,
21 animals, plants, bacteria, protozoa, fungi and viruses.

22 Section 4. Administration of certain antimicrobial agents
23 prohibited.

24 (a) General rule.--Beginning one year from the effective
25 date of this section, a person shall not:

26 (1) Administer to an animal a nontherapeutic amount of
27 penicillin, tetracycline, erythromycin, lincomycin,
28 bacitracin or virginiamycin.

29 (2) Administer to an animal a nontherapeutic amount of
30 any other antimicrobial agent designated by the department.

1 (3) Administer to an animal any antimicrobial agent for
2 growth promotion.

3 (b) Affidavit required.--A person or legal entity owning or
4 operating an agricultural operation shall file annually with the
5 department an affidavit stating that the animals produced by
6 that agricultural operation have not been administered an
7 antimicrobial agent, in violation of subsection (a).

8 (c) Designation of antimicrobial agents.--The department may
9 designate antimicrobial agents that shall not be administered to
10 an animal in a nontherapeutic amount. Before making a
11 designation, the department shall request the views of the
12 Department of Agriculture, the Physician General and the Animal
13 Health and Diagnostic Commission. The department shall annually
14 publish in the Pennsylvania Bulletin a report of the designated
15 antimicrobial agents, if any, and the rationale for the
16 designations. A designation of an antimicrobial agent shall be
17 deemed an adjudication under 2 Pa.C.S. § 101 (relating to
18 definitions) and shall be made and be subject to review in
19 accordance with 2 Pa.C.S. (relating to administrative law and
20 procedure).

21 Section 5. Inspection and testing of agricultural operations.

22 (a) Regular inspection and testing.--The department shall
23 regularly perform such investigations, inspections and tests and
24 take such other actions as are necessary to enforce the
25 provisions of this act or any order, rule or regulation
26 promulgated under this act and may enter, at reasonable times,
27 any agricultural operation for those purposes. A person owning
28 or operating an agricultural operation shall grant access to the
29 department and shall not hinder, obstruct, prevent or interfere
30 with the department in the performance of its duties.

(b) Cooperation with other agencies.--In performing the inspections and testing under subsection (a), the department may request the assistance of the Department of Agriculture, the Department of Environmental Protection, the Pennsylvania Fish and Boat Commission, the Physician General, the Animal Health and Diagnostic Commission, the State Board of Veterinary Medicine, the State Board of Medicine and the State Board of Osteopathic Medicine, which assistance shall reasonably be provided.

Section 6. Enforcement.

(a) Equitable relief.--

(1) A mandatory preliminary injunction, special injunction or temporary restraining order may be issued upon the terms prescribed by the court of common pleas of the county that is the site of an agricultural operation, if the court finds:

(i) that a person is administering an antimicrobial agent in violation of section 4; or

(ii) that a person is denying access or otherwise hindering, obstructing, preventing or interfering with the department in the performance of its duties under this act.

(2) Notice of the application for a mandatory preliminary injunction, special injunction or temporary restraining order shall be given in accordance with the rules of equity practice. In any such proceeding, the department shall not be required to post a bond.

(b) Civil penalties.--In addition to any other relief ordered by a court in accordance with subsection (a), the court may impose civil penalties on any person who knowingly

1 administers an antimicrobial agent in violation of section 4 or
2 who denies access or otherwise hinders, obstructs, prevents or
3 interferes with the department in the performance of its duties
4 in violation of section 5. The civil penalties shall be in the
5 amount of not more than \$1,000 for each day of each violation.

6 (c) Other relief.--Any microbial agent administered in
7 violation of section 4 shall be deemed a "hazardous substance"
8 under 3 Pa.C.S. § 2303 (relating to definitions) and shall be
9 subject to regulation as a "hazardous substance" under 3 Pa.C.S.
10 Ch. 23 (relating to domestic animals) notwithstanding any
11 provision of that title to the contrary.

12 Section 7. Reporting.

13 The department, in consultation with the Department of
14 Agriculture, shall promulgate regulations requiring annual
15 reporting by agricultural operations on the use of antimicrobial
16 agents in animals, including a list of the antimicrobial agents
17 used and the approximate volume administered. The department
18 shall compile the information into an annual report that
19 includes statistics on antimicrobial agent use Statewide and in
20 each of the counties. The information shall be published and
21 maintained on the department's Internet website.

22 Section 8. Alternatives to administration of antimicrobial 23 agents to animals.

24 In the allocation of any funds appropriated by the General
25 Assembly to the Department of Agriculture, the Animal Health and
26 Diagnostic Commission or a land grant institution for
27 agricultural research, priority shall be given to research and
28 development of alternatives to the administration of
29 antimicrobial agents to animals, including improved animal
30 husbandry and hygiene.

1 Section 9. Rules and regulations.

2 The department may promulgate rules and regulations to
3 administer and enforce this act.

4 Section 10. Repeals.

5 All acts and parts of acts are repealed insofar as they are
6 inconsistent with this act.

7 Section 11. Effective date.

8 This act shall take effect in 60 days.