

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 443 Session of
2011

INTRODUCED BY LEACH AND FONTANA, FEBRUARY 7, 2011

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, FEBRUARY 7, 2011

AN ACT

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

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Safe Food and
11 Safe Families Act.

12 Section 2. Findings and purpose.

13 The General Assembly finds and declares as follows:

14 (1) Several antimicrobial agents, including, but not
15 limited to, penicillin, tetracycline, erythromycin,
16 lincomycin, bacitracin and virginiamycin are used in, or are
17 related to, antimicrobial agents used for the treatment of
18 infectious diseases in humans and are also used in animal
19 feed or otherwise administered to animals for nontherapeutic
20 purposes, such as the promotion of animal growth.

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

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

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

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

28 (6) The National Academy of Sciences, in a July 1998
29 report prepared at the request of the United States
30 Department of Agriculture and the Food and Drug

Administration, concluded that "there is a link between the use of antibiotics in food animals, the development of bacterial resistance to these drugs and human disease."

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

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

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

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

(11) More than 350 other medical, public health, environmental and sustainable agriculture organizations have publicly opposed the subtherapeutic use of antimicrobial

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

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

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

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

responsibility for the inspection of meat plants.

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

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

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

Section 3. Definitions.

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

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

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

"Animal." Any livestock, poultry or fish.

"Antimicrobial agent." Any drug, chemical or other substance that either kills or slows the growth of a microbe. The term includes, but is not limited to, antimicrobial drugs that kill bacteria, antiviral agents that kill viruses, antifungal agents

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

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

9 "Department." The Department of Health of the Commonwealth.

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

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

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

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

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

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

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

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

30 (3) Administer to an animal any antimicrobial agent for

1 growth promotion.

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

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

20 Section 5. Inspection and testing of agricultural operations.

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

30 (b) Cooperation with other agencies.--In performing the

1 inspections and testing under subsection (a), the department may
2 request the assistance of the Department of Agriculture, the
3 Department of Environmental Protection, the Pennsylvania Fish
4 and Boat Commission, the Physician General, the Animal Health
5 and Diagnostic Commission, the State Board of Veterinary
6 Medicine, the State Board of Medicine and the State Board of
7 Osteopathic Medicine, which assistance shall reasonably be
8 provided.

9 Section 6. Enforcement.

10 (a) Equitable relief.--

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

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

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

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

27 (b) Civil penalties.--In addition to any other relief
28 ordered by a court in accordance with subsection (a), the court
29 may impose civil penalties on any person who knowingly
30 administers an antimicrobial agent in violation of section 4 or

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

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

11 Section 7. Reporting.

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

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

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

30 Section 9. Rules and regulations.

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

3 Section 10. Repeals.

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

6 Section 11. Effective date.

7 This act shall take effect in 60 days.