
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1195 Session of
2013

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PASHINSKI, READSHAW AND YOUNGBLOOD, APRIL 15, 2013

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
APRIL 15, 2013

AN ACT

1 Prohibiting the administration of certain antimicrobial agents
2 in agriculture; and 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.

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

8 Section 1. Short title.

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

11 Section 2. Findings and purpose.

12 (a) Declarations.--The General Assembly finds and declares
13 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

1 feed or otherwise administered to animals for nontherapeutic
2 purposes, such as the promotion of animal growth.

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

16 (3) The United States Food and Drug Administration
17 proposed in 1977 to ban the subtherapeutic use of penicillin
18 and tetracycline, but the ban was never put into effect.

19 (4) The World Health Organization recommended in 1997
20 that antimicrobial agents that are used to treat humans
21 should not be used to promote animal growth.

22 (5) The National Academy of Sciences, in a July 1998
23 report prepared at the request of the United States
24 Department of Agriculture and the Food and Drug
25 Administration, concluded that "there is a link between the
26 use of antibiotics in food animals, the development of
27 bacterial resistance to these drugs and human disease."

28 (6) Individual European countries, including the United
29 Kingdom, Denmark, Finland and Sweden, banned the use of
30 certain antimicrobial agents in animal feed. Subsequently, in

1 December 1998, health ministers for the European Union
2 countries voted to ban the four remaining human-use
3 antimicrobial agents that were still being administered in
4 the European Union to promote animal growth. The ban by the
5 European Union on using virginiamycin, tylosin, spiramycin
6 and bacitracin in animal feed became effective for the 15
7 member states on July 1, 1999.

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

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

16 (9) A study conducted at the Penn State Milton S.
17 Hershey Medical Center by researchers from The Pennsylvania
18 State University and the Johns Hopkins University Bloomberg
19 School of Public Health found that the medical center was no
20 longer the main source of methicillin-resistant
21 staphylococcus aureus (MRSA) infections at the hospital, and
22 that livestock-associated strains of MRSA were among the
23 strains of MRSA being brought into the hospital.

24 (10) Recent scientific medical studies from the United
25 States, Netherlands and Canada suggest that animal
26 agriculture, specifically swine facilities, are a source of
27 MRSA strains that are entering the human population via
28 workers at those facilities.

29 (11) More than 375 medical, public health, environmental
30 and sustainable agriculture organizations have publicly

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

25 (13) On June 28, 2010, the United States Food and Drug
26 Administration issued a draft guidance paper stating the
27 agency's position that feeding critically important
28 antibiotics to livestock for growth promotion and feed
29 efficiency are not considered judicious use.

30 (14) On March 23, 2012, Federal Judge Theodore Katz

1 ordered the Food and Drug Administration to withdraw
2 approvals for the use of penicillins and tetracyclines in
3 animal feeds unless drug makers are able to show that they
4 are safe.

5 (15) States have the right to enact laws more
6 restrictive than Federal laws concerning antimicrobial
7 agents.

8 (16) A Federal court of appeals in 1978 held that a
9 municipality could inspect meat delivery vehicles for
10 violation of its public health ordinances even though the
11 United States Department of Agriculture has the sole
12 responsibility for the inspection of meat plants.

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

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

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

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

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

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

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

9 "Antimicrobial agent." Any drug, chemical or other substance
10 that either kills or slows the growth of a microbe. The term
11 includes, but is not limited to, antimicrobial drugs that kill
12 bacteria, antiviral agents that kill viruses, antifungal agents
13 that kill fungi and antiparasitic drugs that kill parasites. The
14 term includes both naturally occurring substances, such as
15 penicillins, and synthetic agents designed for the same purpose.

16 "Antimicrobial resistance." The ability of a microbe to
17 survive treatment by antimicrobial agents resulting from changes
18 that reduce or eliminate the effectiveness of drugs, chemicals
19 or other agents to cure or prevent infections in animals or
20 humans.

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

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

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

29 "Nontherapeutic manner." Any application of an antimicrobial
30 agent not intended to combat an established infection or

1 exposure to a bacterial disease, or in the absence of any
2 clinical sign of disease, any application of an antimicrobial
3 agent not provided in curative doses or any application of an
4 antimicrobial agent provided in any manner to healthy animals
5 not known to be exposed to a bacterial disease.

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

8 Section 4. Prohibition of the administration of certain
9 antimicrobial agents in a nontherapeutic manner.

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

12 (1) Administer to an animal in a nontherapeutic manner
13 any kind of penicillin, tetracycline, macrolide, lincosamide,
14 streptogramin, aminoglycoside or sulfonamide.

15 (2) Administer to an animal in a nontherapeutic manner
16 any other antimicrobial agent designated by the department.

17 (3) Administer to an animal any antimicrobial agent for
18 growth promotion.

19 (b) Affidavit required.--

20 (1) A person or legal entity owning or operating an
21 agricultural operation shall file annually with the
22 department an affidavit stating that the animals produced by
23 that agricultural operation have not been administered an
24 antimicrobial agent in violation of subsection (a).

25 (2) A person or legal entity who contracts for the
26 production of animals with a person or legal entity owning or
27 operating an agricultural operation shall file annually with
28 the department an affidavit stating that the animals produced
29 by that agricultural operation have not been administered an
30 antimicrobial agent in violation of subsection (a), and that

1 no directions, guidance or requirements have been issued to
2 the owner of an agricultural entity for the administration of
3 an antimicrobial agent in violation of subsection (a).

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

17 Section 5. Inspection and testing of agricultural operations.

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

27 (b) Cooperation with other agencies.--In performing the
28 inspections and testing under subsection (a), the department may
29 request the assistance of the Department of Agriculture, the
30 Department of Environmental Protection, the Pennsylvania Fish

1 and Boat Commission, the Physician General, the Animal Health
2 and Diagnostic Commission, the State Board of Veterinary
3 Medicine, the State Board of Medicine and the State Board of
4 Osteopathic Medicine, which assistance shall reasonably be
5 provided.

6 Section 6. Enforcement.

7 (a) Equitable relief.--

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

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

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

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

24 (b) Civil penalties.--In addition to any other relief
25 ordered by a court in accordance with subsection (a), the court
26 may impose civil penalties on any person who knowingly
27 administers an antimicrobial agent in violation of section 4 or
28 who denies access or otherwise hinders, obstructs, prevents or
29 interferes with the department in the performance of its duties
30 in violation of section 5. The civil penalties shall be in the

1 amount of not more than \$1,000 for each day of each violation.

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

8 Section 7. Reporting.

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

18 Section 8. Alternatives to administration of antimicrobial
19 agents to animals.

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

27 Section 9. Rules and regulations.

28 The department may promulgate rules and regulations to
29 administer and enforce this act.

30 Section 10. Repeals.

1 All acts and parts of acts are repealed insofar as they are
2 inconsistent with this act.
3 Section 11. Effective date.
4 This act shall take effect in 120 days.