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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1750 Session of  
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READSHAW, TAYLOR, WAGNER AND YOUNGBLOOD, JULY 18, 2011

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, JULY 18,  
2011

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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 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  
18 purposes, such as the promotion of animal growth.

19 (2) Mounting expert opinion and government actions show

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

13 (3) The Swann Committee, formed in the United Kingdom in  
14 1969 to examine the public health effects of the use of  
15 antimicrobial agents in food-producing animals, recommended  
16 that antimicrobial agents be divided into "feed" and  
17 "therapeutic" classes of drugs and that drugs used  
18 therapeutically in humans or animals not be included in the  
19 "feed" class.

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

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

26 (6) The National Academy of Sciences, in a July 1998  
27 report prepared at the request of the United States  
28 Department of Agriculture and the Food and Drug  
29 Administration, concluded that "there is a link between the  
30 use of antibiotics in food animals, the development of

1 bacterial resistance to these drugs and human disease."

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

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

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

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

26 (11) More than 350 other medical, public health,  
27 environmental and sustainable agriculture organizations have  
28 publicly opposed the subtherapeutic use of antimicrobial  
29 agents in livestock, including the American College of  
30 Preventive Medicine, the American Nurses Association, the

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

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

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

27 (14) States have the right to enact laws more  
28 restrictive than Federal laws concerning antimicrobial  
29 agents.

30 (15) A Federal court of appeals in 1978 held that a

1 municipality could inspect meat delivery vehicles for  
2 violation of its public health ordinances even though the  
3 United States Department of Agriculture has the sole  
4 responsibility for the inspection of meat plants.

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

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

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

21 Section 3. Definitions.

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

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

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

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

1 "Antimicrobial agent." Any drug, chemical or other substance  
2 that either kills or slows the growth of a microbe. The term  
3 includes, but is not limited to, antimicrobial drugs that kill  
4 bacteria, antiviral agents that kill viruses, antifungal agents  
5 that kill fungi and antiparasitic drugs that kill parasites. The  
6 term includes both naturally occurring substances, such as  
7 penicillins, and synthetic agents designed for the same purpose.

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

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

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

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

21 "Nontherapeutic manner." Any application of an antimicrobial  
22 agent not intended to combat an established infection or  
23 exposure to a bacterial disease, or in the absence of any  
24 clinical sign of disease, any application of an antimicrobial  
25 agent not provided in curative doses or any application of an  
26 antimicrobial agent provided in any manner to healthy animals  
27 not known to be exposed to a bacterial disease.

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

30 Section 4. Prohibition of the administration of certain

1 antimicrobial agents in a nontherapeutic manner.

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

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

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

9 (3) Administer to an animal any antimicrobial agent for  
10 growth promotion.

11 (b) Affidavit required.--

12 (1) A person or legal entity owning or operating an  
13 agricultural operation shall file annually with the  
14 department an affidavit stating that the animals produced by  
15 that agricultural operation have not been administered an  
16 antimicrobial agent in violation of subsection (a).

17 (2) A person or legal entity who contracts for the  
18 production of animals with a person or legal entity owning or  
19 operating an agricultural operation shall file annually with  
20 the department an affidavit stating that the animals produced  
21 by that agricultural operation have not been administered an  
22 antimicrobial agent in violation of subsection (a), and that  
23 no directions, guidance or requirements have been issued to  
24 the owner of an agricultural entity for the administration of  
25 an antimicrobial agent in violation of subsection (a).

26 (c) Designation of antimicrobial agents.--The department may  
27 designate additional antimicrobial agents that shall not be  
28 administered to an animal in a nontherapeutic manner. Before  
29 making a designation, the department shall request the views of  
30 the Department of Agriculture, the Physician General and the

1 Animal Health and Diagnostic Commission. The department shall  
2 annually publish in the Pennsylvania Bulletin a report of the  
3 designated antimicrobial agents, if any, and the rationale for  
4 the designations. A designation of an antimicrobial agent shall  
5 be deemed an adjudication under 2 Pa.C.S. § 101 (relating to  
6 definitions) and shall be made and be subject to review in  
7 accordance with 2 Pa.C.S. (relating to administrative law and  
8 procedure).

9 Section 5. Inspection and testing of agricultural operations.

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

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

28 Section 6. Enforcement.

29 (a) Equitable relief.--

30 (1) A mandatory preliminary injunction, special



1 injunction or temporary restraining order may be issued upon  
2 the terms prescribed by the court of common pleas of the  
3 county that is the site of an agricultural operation, if the  
4 court finds:

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

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

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

16 (b) Civil penalties.--In addition to any other relief  
17 ordered by a court in accordance with subsection (a), the court  
18 may impose civil penalties on any person who knowingly  
19 administers an antimicrobial agent in violation of section 4 or  
20 who denies access or otherwise hinders, obstructs, prevents or  
21 interferes with the department in the performance of its duties  
22 in violation of section 5. The civil penalties shall be in the  
23 amount of not more than \$1,000 for each day of each violation.

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

30 Section 7. Reporting.

1 The department, in consultation with the Department of  
2 Agriculture, shall promulgate regulations requiring annual  
3 reporting by agricultural operations on the use of antimicrobial  
4 agents in animals, including a list of the antimicrobial agents  
5 used and the approximate weight administered. The department  
6 shall compile the information into an annual report that  
7 includes statistics on antimicrobial agent use Statewide and in  
8 each of the counties. The information shall be published and  
9 maintained on the department's Internet website.

10 Section 8. Alternatives to administration of antimicrobial  
11 agents to animals.

12 In the allocation of any funds appropriated by the General  
13 Assembly to the Department of Agriculture, the Animal Health and  
14 Diagnostic Commission or a land grant institution for  
15 agricultural research, priority shall be given to research and  
16 development of alternatives to the administration of  
17 antimicrobial agents to animals, including improved animal  
18 husbandry and hygiene.

19 Section 9. Rules and regulations.

20 The department may promulgate rules and regulations to  
21 administer and enforce this act.

22 Section 10. Repeals.

23 All acts and parts of acts are repealed insofar as they are  
24 inconsistent with this act.

25 Section 11. Effective date.

26 This act shall take effect in 120 days.