AN ACT

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

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

9 Section 1. Short title.

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

12 Section 2. Findings and purpose.

13 (a) Findings.--The General Assembly finds and declares as follows:

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

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

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

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

(5) In 1997, the World Health Organization recommended that antimicrobial agents that are used to treat humans should not be used to promote animal growth.

(6) In a July 1998 report prepared at the request of the
United States Department of Agriculture and the Food and Drug Administration, The National Academy of Sciences 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 agents in livestock, including the American College of Preventive Medicine, the American Nurses Association, the Pennsylvania State Nurses Association, the American Public Health Association, the American Academy of Pediatrics, the Ambulatory Pediatric Association, the National Association of County and City Health Officials, the American Academy of Family Physicians, the American Geriatrics Society, the Breast Cancer Fund, the Catholic Health Association of the United States, the Infectious Diseases Society of America, the Leukemia and Lymphoma Society, the National Alliance of State and Territorial AIDS Directors, the Physicians for Social Responsibility, the Center for Science in the Public Interest, The Center for Food Safety, the National Campaign for Sustainable Agriculture, American Rivers, the Chesapeake Bay Foundation, Citizens for Pennsylvania's Future, Clean Water Action, the Environmental Defense Fund, the National Environmental Trust, the Natural Resources Defense Council and the Sierra Club.

(12) In July 2005, the Food and Drug Administration withdrew its approval for the use of fluoroquinoline antimicrobial agents for nontherapeutic administration to poultry because of concerns over the development of antibiotic-resistant bacteria.

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

(14) In 1978, a Federal court of appeals held that a municipality could inspect meat delivery vehicles for
violation of its public health ordinances even though the
United States Department of Agriculture has sole
responsibility for the inspection of meat plants.

(15) In 1985, the United States Supreme Court
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." A drug, chemical or other substance
that either kills or slows the growth of a microbe. The term
includes antimicrobial drugs that kill bacteria, antiviral agents that kill viruses, antifungal agents that kill fungi and antiparasitic drugs that kill parasites. The term includes both naturally occurring substances, such as penicillins, and synthetic agents designed for the same purpose.

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

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

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

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

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

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

Section 4. Administration of certain antimicrobial agents prohibited.

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

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

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

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

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

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

Section 5. Inspection and testing of agricultural operations.

(a) Regular inspection and testing.--The department shall
regularly perform investigations, inspections and tests and take
other actions as are necessary to enforce the provisions of this
act or any order, rule or regulation promulgated under this act
and may enter, at reasonable times, an agricultural operation
for those purposes. A person owning or operating an agricultural
operation shall grant access to the department and shall not
hinder, obstruct, prevent or interfere 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 a 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 a person who knowingly administers
an antimicrobial agent in violation of section 4 or who denies
access or otherwise hinders, obstructs, prevents or interferes
with the department in the performance of its duties in
violation of section 5. The civil penalties shall be in the
amount of not more than $1,000 for each day of each violation.
(c) Other relief.--A microbial agent administered in
violation of section 4 shall be deemed a hazardous substance
under 3 Pa.C.S. § 2303 (relating to definitions) and shall be
subject to regulation as a hazardous substance under 3 Pa.C.S.
Ch. 23 (relating to domestic animals) notwithstanding any
provision of that title to the contrary.
Section 7. Reporting.
The department, in consultation with the Department of
Agriculture, shall promulgate regulations requiring annual
reporting by agricultural operations on the use of antimicrobial
agents in animals, including a list of the antimicrobial agents
used and the approximate volume administered. The department
shall compile the information into an annual report that
includes statistics on antimicrobial agent use Statewide and in
each of the counties. The information shall be published and
maintained on the department's publicly accessible Internet
website.
Section 8. Alternatives to administration of antimicrobial
agents to animals.
In the allocation of any funds appropriated by the General
Assembly to the Department of Agriculture, the Animal Health and
Diagnostic Commission or a land grant institution for
agricultural research, priority shall be given to research and
development of alternatives to the administration of
antimicrobial agents to animals, including improved animal
husbandry and hygiene.

Section 9. Rules and regulations.
The department may promulgate rules and regulations to
administer and enforce this act.

Section 10. Repeals.
All acts and parts of acts are repealed insofar as they are
inconsistent with this act.

Section 11. Effective date.
This act shall take effect in 60 days.