
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 246 Session of
2017

INTRODUCED BY LEACH, JANUARY 27, 2017

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JANUARY 27, 2017

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

15 (1) Several antimicrobial agents, including, but not
16 limited to, penicillin, tetracycline, erythromycin,
17 lincomycin, bacitracin and virginiamycin are used in, or are
18 related to, antimicrobial agents used for the treatment of
19 infectious diseases in humans and are also used in animal
20 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) In 1977, the United States Food and Drug
24 Administration proposed to ban the subtherapeutic use of
25 penicillin and tetracycline, but the ban was never put into
26 effect.

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

30 (6) In a July 1998 report prepared at the request of the

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

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

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

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

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

30 (11) More than 350 other medical, public health,

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

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

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

29 (14) In 1978, a Federal court of appeals held that a
30 municipality could inspect meat delivery vehicles for

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

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

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

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

20 Section 3. Definitions.

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

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

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

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

29 "Antimicrobial agent." A drug, chemical or other substance
30 that either kills or slows the growth of a microbe. The term

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

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

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

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

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

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

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

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

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

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

30 (2) Administer to an animal a nontherapeutic amount of

1 any other antimicrobial agent designated by the department.

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

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

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

22 Section 5. Inspection and testing of agricultural operations.

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

1 the performance of its duties.

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

11 Section 6. Enforcement.

12 (a) Equitable relief.--

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

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

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

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

29 (b) Civil penalties.--In addition to any other relief
30 ordered by a court in accordance with subsection (a), the court

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

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

13 Section 7. Reporting.

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

24 Section 8. Alternatives to administration of antimicrobial
25 agents to animals.

26 In the allocation of any funds appropriated by the General
27 Assembly to the Department of Agriculture, the Animal Health and
28 Diagnostic Commission or a land grant institution for
29 agricultural research, priority shall be given to research and
30 development of alternatives to the administration of

1 antimicrobial agents to animals, including improved animal
2 husbandry and hygiene.

3 Section 9. Rules and regulations.

4 The department may promulgate rules and regulations to
5 administer and enforce this act.

6 Section 10. Repeals.

7 All acts and parts of acts are repealed insofar as they are
8 inconsistent with this act.

9 Section 11. Effective date.

10 This act shall take effect in 60 days.