

STATE OF NEW YORK

2871--A

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sens. KAVANAGH, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, KAPLAN, KRUEGER, MYRIE, PALUMBO, PARKER, RIVERA, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the state finance law, in relation to protecting medically important antimicrobials for human public health

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature declares that the
2 overuse and misuse of medically important antimicrobials poses a serious
3 public health threat.

4 The World Health Organization has stated that "without urgent, coordi-
5 nated action by many stakeholders, the world is headed for a post-anti-
6 biotic era, in which common infections and minor injuries which have
7 been treatable for decades can once again kill." In 2016, members of the
8 UN General Assembly adopted a political declaration acknowledging that
9 "the resistance of bacterial, viral, parasitic and fungal microorganisms
10 to antimicrobial medicines that were previously effective for treatment
11 of infections is mainly due to: the inappropriate use of antimicrobial
12 medicines in public health, animal, food, agriculture and aquaculture
13 sectors; ... resistance to antibiotics, which are not like other medi-
14 cines ... is the greatest and most urgent global risk, requiring
15 increased attention and coherence at the international, national and
16 regional levels."

17 The legislature further finds that overuse and misuse of medically
18 important antimicrobials in livestock production is a significant compo-
19 nent of the threat posed. The United States Food and Drug Administration
20 and the Centers for Disease Control and Prevention have stated that
21 there is a definitive link between the routine use of medically impor-
22 tant antimicrobials on industrial farms and the crisis of antimicrobi-
23 al-resistant infections in humans.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 The issue of antimicrobial misuse and overuse, whether in people or
2 animals, is a significant and urgent public health matter.

3 It has been estimated that seventy percent of all antimicrobials sold
4 in the United States are for use in food-producing animals, often to
5 compensate for the effects of unsanitary and overcrowded conditions on
6 farms.

7 Many of the antimicrobials provided to food-producing animals are
8 identical to, or from the same class as, drugs used in human medicine to
9 treat serious conditions (i.e., medically important drugs). Thus, anti-
10 microbial-resistant bacteria that emerge and spread from food-producing
11 animals in farm settings to infect humans can be very dangerous because
12 the antibiotics usually used to treat the infections in humans may no
13 longer be effective against them.

14 The legislature further finds that, as with any use of medically
15 important antimicrobials in animals, such use must be closely supervised
16 by a New York state licensed veterinarian or those veterinarians author-
17 ized to practice within the state. Moreover, that it is the licensed
18 veterinarian who must ensure that the use of medically important antimi-
19 crobials is appropriate and necessary.

20 The legislature therefore intends to place appropriate restrictions on
21 the misuse and overuse of medically important antimicrobials in food-
22 producing animals by ensuring that veterinarians have the clear authori-
23 ty to control the use of medically important antimicrobials in food-pro-
24 ducing animals in New York state and that their practices are following
25 the best scientific evidence.

26 The purpose of this act is to protect public health by preserving the
27 effectiveness of medically important antimicrobials now and for future
28 generations by eliminating the use of those medicines in food-producing
29 animals for disease prevention, resulting in a reduction in the rise and
30 spread of antimicrobial-resistant bacteria and antimicrobial-resistant
31 infections in humans.

32 § 2. The education law is amended by adding a new article 135-A to
33 read as follows:

34 ARTICLE 135-A

35 COMBATING ANTIMICROBIAL RESISTANCE ACT

36 Section 6720. Short title.

37 6721. Definitions.

38 6722. Prohibition of certain antimicrobial administration.

39 6723. Authorization of certain antimicrobial administration.

40 6724. Annual reports.

41 6725. Antimicrobial stewardship guidelines.

42 6726. Implementation.

43 6727. Authority to receive Veterinary Feed Directives.

44 6728. Violations.

45 § 6720. Short title. This act shall be known and may be cited as the
46 "combating antimicrobial resistance act of 2021."

47 § 6721. Definitions. As used in this section:

48 1. "Antimicrobial" means any substance of natural, semi-synthetic, or
49 synthetic origin that at in vivo concentrations kills or inhibits the
50 growth of microorganisms by interacting with a specific target. The term
51 antimicrobial is a collective for antiviral, antibacterial, antifungal,
52 antiparasitic, and antiprotozoal agents.

53 2. "Antimicrobial class" means antimicrobial agents with related
54 molecular structures, often with a similar mode of action because of
55 interaction with a similar target and thus subject to a similar mech-
56 anism of resistance.

1 3. "Antimicrobial resistance (AMR)" means the ability of a microorgan-
2 ism to multiply or persist in the presence of an increased level of an
3 antimicrobial relative to the susceptible counterpart of the same
4 species.

5 4. "Disease control" means administration of antimicrobial agents to a
6 group of animals containing sick and healthy individuals (presumed to be
7 infected), to minimize or resolve clinical signs of infectious disease
8 and to prevent further spread of the disease.

9 5. "Disease prevention" means administration of antimicrobial agents
10 to an individual or a group of animals at risk of acquiring a specific
11 infection or in a specific situation where infectious disease is likely
12 to occur if the antimicrobial agent is not administered.

13 6. (a) "Disease treatment" means administration of antimicrobial
14 agents to an individual or group of animals showing clinical signs of
15 infectious disease or that test positive for a disease.

16 (b) Disease treatment includes selective dry cow therapy, whereby
17 individual dairy cows within a herd are determined, when entering a dry
18 cycle, to be likely infected with mastitis based on key indicators
19 including their previous history of disease, somatic cell counts and/or
20 cell cultures, and are administered antibiotics as prescribed by a
21 licensed veterinarian.

22 7. "Food-producing animal" means:

23 (a) All cattle, swine, or poultry, regardless of whether the specific
24 animal is raised for the purpose of producing food for human consump-
25 tion; or

26 (b) Any animal of a type that the department of agriculture and
27 markets identifies by rule as livestock typically used to produce food
28 for human consumption, including aquatic and amphibian species.

29 8. "Livestock producer" means a person raising a food-producing animal
30 for commercial purposes.

31 9. "Medically important antimicrobial" means a drug that is composed
32 in whole or in part of:

33 (a) A form of the antibiotic classes of penicillin, tetracycline,
34 macrolide, lincosamide, streptogramin, aminoglycoside, sulfonamide, or
35 cephalosporin; or

36 (b) A drug from an antimicrobial class that is categorized as crit-
37 ically important, highly important, or important in the World Health
38 Organization list of Critically Important Antimicrobials for Human Medi-
39 cine (5th Revision, 2016), or a subsequent revision or successor docu-
40 ment issued by the World Health Organization that is recognized by rule
41 by the department of health.

42 10. "Veterinary Feed Directive" has the same definition as in section
43 558.3 of title 21 of the code of federal regulations.

44 § 6722. Prohibition of certain antimicrobial administration. Begin-
45 ning January first, two thousand twenty-three, medically important anti-
46 microbials shall not be administered to a food-producing animal unless
47 ordered by a licensed veterinarian who has visited the farm operation
48 within the previous six months, through a prescription or Veterinary
49 Feed Directive, pursuant to a veterinarian-client-patient relationship
50 that meets the requirements as defined by the New York state office of
51 professions.

52 § 6723. Authorization of certain antimicrobial administration. 1.
53 Beginning January first, two thousand twenty-three, a livestock producer
54 may provide a medically important antimicrobial to a food-producing
55 animal only if a licensed veterinarian, in the exercise of professional

1 judgment, determines that the provision of the medically important anti-
2 microbial to the animal is necessary:

- 3 (a) To control the spread of a disease or infection;
- 4 (b) To treat a disease or infection; or
- 5 (c) In relation to surgical or other medical procedures.

6 2. (a) Medically important antimicrobials shall not be administered by
7 any person to food-producing animals solely for the purposes of promot-
8 ing weight gain, improving feed efficiency, or disease prevention.

9 (b) Blanket dry cow therapy, whereby all dairy cows in a herd entering
10 a dry cycle are routinely administered an antibiotic to prevent clinical
11 mastitis, is considered a method of disease prevention, and is not
12 authorized.

13 3. A veterinarian who determines that the provision of a medically
14 important antimicrobial to a food-producing animal is necessary for a
15 purpose described in this section shall specify an end date for the
16 provision of the antimicrobial to the animal.

17 4. A livestock producer may administer a medically important antimi-
18 crobial to a food-producing animal only for the purpose as determined by
19 a licensed veterinarian under this article. The livestock producer may
20 provide the antimicrobial only for the duration specified by the veteri-
21 narian.

22 § 6724. Annual reports. 1. Veterinarians licensed to practice in New
23 York state, or who are licensed in a bordering state and practice in the
24 state, and who prescribe medically important antimicrobials or write a
25 Veterinary Feed Directive for one or more sets of food-producing animals
26 must file an annual report under this section in a form and manner
27 required by the department by rule. This report will be submitted to the
28 commissioner, the commissioner of health, the commissioner of agricul-
29 ture and markets, the temporary president of the senate, the senate
30 minority leader, the speaker of the assembly, and the minority leader of
31 the assembly. If any medically important antimicrobials were prescribed
32 to, provided to, or administered to food-producing animals during the
33 reporting period, the annual report must contain the following informa-
34 tion:

35 (a) The total number of food-producing animals provided with medically
36 important antimicrobials;

37 (b) The name of each medically important antimicrobial provided;

38 (c) The species of food-producing animals that were provided with each
39 medically important antimicrobial;

40 (d) The quantity of each medically important antimicrobial prescribed
41 to each species of food-producing animal;

42 (e) The number of days that each medically important antimicrobial was
43 intended to be provided to a food-producing animal;

44 (f) The dosage of each medically important antimicrobial that was
45 intended to be provided to a food-producing animal;

46 (g) The method for providing each medically important antimicrobial to
47 a food-producing animal;

48 (h) The purpose for providing each medically important antimicrobial
49 to a food-producing animal; and

50 (i) The disease or infection, if any, that was intended to be
51 controlled due to the provision of each medically important antimicrobi-
52 al.

53 2. For the purposes of paragraph (h) of subdivision one of this
54 section, the purpose for providing a medically important antimicrobial
55 to a food-producing animal must be reported as:

- 56 (a) Disease control; or

1 (b) Disease treatment; or

2 (c) Necessary for surgical or other medical procedures.

3 3. Information reported under this section should be made publicly
4 available by the department of health annually in an online searchable
5 database of aggregated data. Such database shall protect the identity
6 of a licensed veterinarian, an individual farm or business.

7 4. Information reported under this section is a public record and is
8 not subject to exemption from public disclosure as required under the
9 New York state freedom of information law.

10 5. The state board of veterinary medicine, the department of health
11 and the department of agriculture and markets will consult as necessary
12 to fulfill the requirements of this section.

13 § 6725. Antimicrobial stewardship guidelines. 1. The state board of
14 veterinary medicine, in consultation with the department of agriculture
15 and markets, the department of health, universities, and cooperative
16 extensions, shall develop antimicrobial stewardship guidelines and best
17 management practices for veterinarians, livestock owners, and their
18 employees who are involved with the administering of medically important
19 antimicrobials on the proper use of medically important antimicrobials
20 for disease treatment and control. The guidelines shall include scien-
21 tifically validated practical alternatives to the use of medically
22 important antimicrobials, including, but not limited to, good hygiene
23 and management practices. The guidelines shall be reviewed and updated
24 periodically, as necessary.

25 2. The state board of veterinary medicine shall consult with livestock
26 producers, licensed veterinarians, and other relevant stakeholders on
27 ensuring that livestock grown in rural areas with limited access to
28 veterinary care have timely access to treatment.

29 3. For the purposes of this section, "antimicrobial stewardship" is a
30 commitment to do all of the following:

31 (a) To use medically important microbials only when necessary to treat
32 or control disease;

33 (b) To select the appropriate medically important microbial and the
34 appropriate dose, duration, and route of administration; and

35 (c) To use medically important microbials for the shortest duration
36 necessary and allowable, and to administer them to the fewest animals
37 necessary.

38 § 6726. Implementation. 1. The state board of veterinary medicine, the
39 department of health, and the department of agriculture and markets
40 shall coordinate with the United States Department of Agriculture, the
41 United States Food and Drug Administration, and the Centers for Disease
42 Control and Prevention to implement the expanded antimicrobial resist-
43 ance surveillance efforts included in the National Action Plan for
44 Combating Antibiotic-Resistant Bacteria, and that the information gath-
45 ered through this effort will help lead to a better understanding of the
46 links between antimicrobial use patterns in livestock and the develop-
47 ment of antimicrobial-resistant bacterial infections.

48 2. (a) The department of health, the state board of veterinary medi-
49 cine, the department of agriculture and markets, veterinarians, and
50 livestock producers shall gather information on medically important
51 antimicrobial sales and usage as well as antimicrobial-resistant bacte-
52 ria and livestock management practice data. Monitoring efforts shall
53 not be duplicative of the National Animal Health Monitoring System or
54 the National Antimicrobial Resistance Monitoring System, and, to the
55 extent feasible, will coordinate with the United States Department of
56 Agriculture, the Centers for Disease Control and Prevention, and the

1 United States Food and Drug Administration in the development of these
2 efforts.

3 (b) In coordinating with the National Animal Health Monitoring System
4 and the National Antimicrobial Resistance Monitoring System, the depart-
5 ment of health, the state board of veterinary medicine and the depart-
6 ment of agriculture and markets shall gather representative samples of
7 biological isolates from all of the following:

8 (i) New York state's major livestock segments;

9 (ii) regions with considerable livestock production; and

10 (iii) representative segments of the food production chain.

11 (c) The department of health, the state board of veterinary medicine
12 and the department of agriculture and markets shall report to the legis-
13 lature by January first, two thousand twenty-four, the results of their
14 outreach activities and monitoring efforts.

15 § 6727. Authority to receive Veterinary Feed Directives. The depart-
16 ment of agriculture and markets has the authority to request and receive
17 copies of all Veterinary Feed Directives issued in the state from veter-
18 inarians, livestock owners, feed mills, or distributors to fully imple-
19 ment the provisions of this article.

20 § 6728. Violations. 1. A person or entity who violates this article
21 shall be liable for a civil penalty of not more than two hundred and
22 fifty dollars per farm operation for each day a violation occurs.

23 2. (a) For a second or subsequent violation, a person or entity who
24 violates this article shall be punishable by an administrative fine in
25 the amount of five hundred dollars per farm operation for each day a
26 violation occurs.

27 (b) In addition to the administrative fine, the violator shall attend
28 an educational program to be jointly developed by the department of
29 health and the state board of veterinary medicine on the judicious use
30 of medically important antimicrobials. The violator shall successfully
31 complete the program and provide proof to the board within ninety days
32 from the occurrence of the violation.

33 3. Subdivisions one and two of this section shall not apply to
34 licensed veterinarians. A veterinarian who violates this section is
35 subject to discipline as defined in subarticle three of article one
36 hundred thirty of title eight of this chapter.

37 4. The moneys collected pursuant to this article shall be deposited
38 into the antibiotics education fund established pursuant to section
39 ninety-seven-j of the state finance law and be available for expenditure
40 upon appropriation by the legislature.

41 § 3. The state finance law is amended by adding a new section 97-j to
42 read as follows:

43 § 97-j. Antibiotics education fund. 1. There is hereby established in
44 the custody of the state comptroller a special fund to be known as the
45 "antibiotics education fund".

46 2. Such fund shall consist of all monies recovered from the assessment
47 of any penalty authorized by article one hundred thirty-five-A of the
48 education law.

49 3. Moneys of the fund shall be deposited to the credit of the fund and
50 shall, in addition to any other moneys made available for such purpose,
51 be available to the department for the purpose of antibiotics educa-
52 tional programs. All payments from the antibiotics education fund shall
53 be made on the audit and warrant of the state comptroller on vouchers
54 certified and submitted by the commissioner.

55 § 4. This act shall take effect January 1, 2023.