

# How The Government Insulated Big Pharma From Liability Through The PREP Act



The U.S. sold its citizens' [right to jury trials](#) to the country's largest lobbying force, and Americans now bear the costs after Pharma cashed record profits.

The PREP Act, a 2005 statute invoked by HHS Secretary Alex Azar at the onset of the pandemic, guarantees immunity "with respect to all claims caused by, arising out of, relating to, or resulting from the administration to or the use by an individual of a covered countermeasure," including mRNA vaccines.

In effect, this serves as a "get-out-of-jail free card for anyone connected with the Covid shots," as Alex Berenson [explains](#) in his recent reporting. While Covid products earned Pfizer over \$50 billion in 2022, the PREP Act bars Americans from suing from injuries or medical misconduct related to the broad definition of "covered countermeasures."

Berenson surveys an array of cases across the country. In Oklahoma, a woman claimed she entered a Walgreens store for a flu vaccination, but an employee administered a Covid vaccine without her knowledge. In Kansas, a pharmacist allegedly administered a Covid shot to a minor child without parental consent. In North Carolina, a parent brought suit when her son showed up for a Covid test but vaccinators gave him an RNA jab without permission. Under the PREP Act, courts have dismissed all their cases.

But this phenomenon is not limited to the Covid response.

Hannah [Brusewitz](#), born in 1991, suffered over 100 seizures after receiving her DTP vaccine, resulting in permanent brain damage. The Supreme Court held that she could not sue the vaccine's manufacturer for her injury because of a sweeping liability shield that President Reagan signed into law in 1986, preempting suits for "all design-defect claims against vaccine manufacturers brought by plaintiffs who seek compensation for injury or death caused by vaccine side effects."

The two-tiered system of justice, in which Big Pharma enjoys the windfalls of mandates without the costs of legal liability, is a direct affront to our Bill of Rights. It is exactly what the Seventh Amendment was designed to prevent.

## **The Overthrow of the Seventh Amendment**

The Framers ratified the Seventh Amendment, guaranteeing Americans the right to a jury trial, to protect citizens from the undue influence of commercial powers that would otherwise corrupt the judicial system for their own benefit.

It was not an afterthought or a technicality; pamphleteers [called](#) it "essential in every free country,"

warning “the well born” would wield the power of the judiciary, and they would be “generally disposed, and very naturally too, to favour those of their own description.”

The Declaration of Independence listed the denial of the “benefits of trial by jury” as a grievance giving rise to the Revolution, and Sir William Blackstone called jury trials “the glory of the English law,” for their absence would create a judicial system run by men with “an involuntary bias toward those of their own rank and dignity.”

The Seventh Amendment, in conjunction with the Fifth Amendment’s right to due process, served as the legal underpinning for the American ideal of equality before the law. But that posed a great inconvenience for Big Pharma.

In 1985, the *New York Times* eulogized the era of profits in the pharmaceutical industry. The prediction could not have been more wrong.

“[Glory Days End for Pharmaceuticals](#),” the Gray Lady declared. The article cited growing competition and legal liabilities as signs that “the big drug companies have suddenly found themselves mired in the same sort of troubles that have plagued less-glamorous industries for years.”

“Inevitably some [companies] will face staggering liabilities and lengthy court cases on approved drugs that later turn into flops,” journalist Winston Williams [wrote](#).

Of course, the glory days did not end for Big Pharma.

From 2000 to 2018, 35 pharmaceutical companies reported cumulative revenue of \$11.5 trillion. A [study found](#) that this was “significantly greater than other larger, public companies in the same time frame.” Pfizer’s annual revenue jumped from \$3.8 billion in 1984 to a record [\\$100 billion](#) in 2022. The United States’ spending on healthcare, as measured as a percentage of its GDP, has [more than doubled](#) in the last 40

years.

The subversion of the Seventh Amendment has been integral to that process. In the late 20th century, vaccine companies began prioritizing corporate profits over safety concerns. For example, Wyeth (now Pfizer), knowingly marketed a less safe version of the DPT vaccine when internal corporate documents [showed](#) that the “purification process” would result in a “Very large increase in the cost of manufacture.”

Instead of reducing profit margins, Wyeth and other pharmaceutical companies lobbied Congress to pass the 1986 National Childhood Vaccine Injury Act. The NCVIA codified the recommendations of a study, funded by Merck and Lederle, that absolved vaccine manufacturers from liabilities from vaccine injuries.

The liability shield resulted in a boom for corporate profits, and the courts offered it extreme deference. After the 1986 Act, the childhood vaccination schedule exploded from three recommended vaccines (DTP, MMR, and polio) to 72 shots. In retrospect, the glory days hadn’t even started for pharmaceuticals in 1985. Under updated legislation, the government could mandate shots, guaranteeing billions of dollars in revenue for Merck, Pfizer, and other drug manufacturers, while transferring the cost of their products onto the taxpayer.

## **Selling the Seventh Amendment**

The revolving door between government and Big Pharma has led to a legal system of men who favor “those of their own rank,” just as Sir Blackstone warned.

In 2018, Kaiser Health News [found](#) that “Nearly 340 former congressional staffers now work for pharmaceutical companies or their lobbying firms.”

Alex Azar, the HHS Secretary responsible for enacting the PREP Act, was president of the US division of Eli Lilly from 2012 to 2017. Scott Gottlieb resigned as Commissioner of the FDA in 2019 [to join](#) Pfizer's Board of Directors, where he advocated for [lockdowns and censorship](#) during Covid, even [encouraging Twitter](#) to suppress pro-vaccine doctors who discussed natural immunity.

White House Counselor Steve Richetti worked as a lobbyist for twenty years before joining the Biden administration. His clients included Novartis, Eli Lilly, and Pfizer. The *New York Times* [described him](#) as "one of [Biden's] most loyal advisers, and someone Mr. Biden will almost certainly turn to in times of crisis or in stressful moments."

The revolving door has been accompanied by unprecedented lobbying and marketing efforts. From 2020 to 2022, the pharmaceutical and health products industry [spent \\$1 billion on lobbying](#). For context, this was more than five times as much as the [commercial banking](#) industry spent on lobbying during the same time period. In those three years, Big Pharma spent more on lobbying than the [oil, gas, alcohol, gambling, farming, and defense](#) industries *combined*.

The influence efforts expanded to citizens and news outlets as well. Pharmaceutical companies [spend significantly more money](#) on advertising and marketing than research and development (R&D). In 2020, Pfizer spent \$12 billion on sales and marketing and \$9 billion on R&D. That year, Johnson & Johnson devoted \$22 billion to sales and marketing and \$12 billion to R&D.

The industry's efforts were rewarded. Billions of dollars in advertising resulted in millions of Americans tuning into [programming sponsored by Pfizer](#). The [press promoted their products](#) and seldom mentioned Big Pharma's history of [unjust enrichment, fraud, and criminal pleas](#).

This was the center of an international marketing campaign designed to control the courts, the media, and public perception. In Pfizer's 2022 Annual Report, CEO Albert Bourla [stressed](#) the importance of customers' "positive perception" of the pharmaceutical giant.

"2022 was a record-breaking year for Pfizer, not only in terms of revenue and earnings per share, which were the highest in our long history," Bourla noted. "But more importantly, in terms of the percentage of patients who have a positive perception of Pfizer and the work we do."

The industry dedicated billions of dollars to manipulating Americans into taking its products while their government stripped them of their right to legal action; citizens, devoid of the ability to hold the companies accountable in the court of law, [continue to subsidize](#) the federal-pharmaceutical hegemon with their tax dollars.

As noted in [How Government Insulated Big Pharma from Liability](#): "In effect, the federal government sold the Seventh Amendment to the largest lobbying force in the country. This transferred power from the citizenry to the nation's ruling class and exchanged a constitutional right for a corporate liability shield."

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