

States Are Breaking Through Big Pharma's Liability Shields



Legislators in Arkansas [have a simple question](#) before them: if pharmaceutical executives deliberately withhold knowledge of a product's adverse effects, should they be criminally liable if patients suffer serious harm from the product?

The federal government effectively [sold the Seventh Amendment](#) right to a jury trial to the largest lobbying force in the country.

A primary purpose of the Seventh Amendment was to prevent powerful forces from warping the legal system to protect themselves. The convergence of the pharmaceutical industry and our federal government, outlined in the previous article, sacrificed this constitutional right for a corporate liability shield.

Now, it is largely up to state legislatures to restore citizens' rights against the [state-subsidized](#) pharmaceutical

companies that rake in billions from their Covid products.

In Arkansas, [Senate Bill 8](#) would make it criminal for pharmaceutical executives to knowingly hide, conceal, or withhold information regarding a medical product's adverse effects if the product results in death or serious injury.

The Arkansas GOP can enact this legislation without making concessions. Republicans outnumber Democrats 82 to 18 in the State House of Representatives and 29 to 6 in the State Senate.

Arkansas Governor Sarah Huckabee Sanders called for a "new generation of Republican leadership" in her response to the 2023 State of the Union. She boasted that she had "repealed COVID orders and said never again to authoritarian mandates and shutdowns."

Mandates have been lucrative for Big Pharma. Covid products accounted for more than half of Pfizer's record [\\$100 billion in revenue](#) in 2022. These companies received the benefit of taxpayer funding without the risk of legal liability.

Now, Governor Sanders can have her state lead by example by demanding accountability for harm, misdeeds, and deception from our country's most powerful corporate forces.

Overcoming Big Pharma's P.R. Campaigns

The pharmaceutical industry has dedicated billions of dollars to marketing and lobbying to combat its history of [unjust enrichment](#), [fraud](#), and [criminal pleas](#).

The largest companies dedicate more spending to [brand management](#) than to researching and developing drugs. 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.

Additionally, Big Pharma remains the largest lobbying force in the country. From 2020 to 2022, the pharmaceutical and health products industry spent \$1 billion on lobbying; this was more than the combined spending of the oil, gas, alcohol, gambling, farming, and defense industries in that time period.

The industry's information initiatives extend to [medical journals](#). Companies conduct research, write reports, and pay doctors to list themselves as the authors to enhance their reports' credibility in a system known as "[medical ghost-writing](#)." As of 2017, [half of the editors](#) of American medical journals receive payments from drug companies.

Despite billions of dollars in annual investments to control the information surrounding the industry, Americans still overwhelmingly [distrust](#) Big Pharma. Now, Arkansas Republicans must choose whether to side with pharmaceutical executives or their constituents.

Both parties campaign against the excesses of the industry – President Biden bemoans domestic drug prices while Republicans announce their opposition to mandates. But the GOP has yet to deliver on its rhetoric despite state-level opportunities to curb the excesses of Big Pharma and impose liability.

Media outlets, with the exception of [Daniel Horowitz](#) of The Blaze, have largely ignored state and local initiatives.

North Dakota and West Virginia are [considering bills](#) that would prevent state agencies from requiring vaccines "unless the manufacturer of the medical product is liable for any death or serious injury caused by the medical product." In Kansas, [HB 2007](#) proposes prohibiting the state from requiring school children to receive Covid vaccines.

These are sensible reforms with popular appeal, particularly in conservative states. Executives shouldn't profit while withholding information about dangerous side effects of their products; companies shouldn't enjoy government-mandated

windfalls without the risk of liability; children shouldn't be required to receive vaccines that don't work for a virus that doesn't harm them. Yet, these initiatives have stalled despite Republican supermajorities in state legislatures.

While our news media focuses on federal squabbles, state and local initiatives often have a more direct impact on our daily freedoms. State and local edicts stripped Americans of their [right to travel](#), [shut down schools](#), and arrested dissidents. Going forward, they will likely determine individuals' rights to resist the federal-corporate partnership that protects Big Pharma.

These state initiatives cut both ways.

The Tennessee State Senate recently passed [SB 11](#), which makes protections against COVID mandates and lockdowns permanent. Meanwhile, New York [Assembly Bill 8378](#) aims to require Covid vaccines for all students, guaranteeing a steady demand of clients for pharmaceutical companies.

State officials across the nation can help usher in the "new generation of Republican leadership" that Governor Sanders described. They can fight against the federal government's insulation of Big Pharma, affirm their commitment to the justice of the Seventh Amendment, and champion the rights of their citizens against the widely distrusted, highly profitable industry.

If they don't, they risk repeating the familiar trend of Republican leadership: shilling for corporate interests while ignoring the will of their voters.

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