



American Academy of Pediatrics

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BACKGROUNDER:
NATIONAL CHILDHOOD VACCINE INJURY ACT

(Note to editors and reporters: On December 22, 1987, President Reagan signed into law the funding mechanism for the National Childhood Vaccine Injury Act. This backgrounder explains the specifics of the legislation.)

The National Childhood Vaccine Injury Act promises a more secure vaccine market, a fair remedy for children who are inadvertently injured by any of the recommended childhood vaccines, and greater protection from liability for vaccine administrators and manufacturers.

Parents whose children are permanently injured from vaccines now have a reasonable alternative to litigation, with a "no-fault" concept now written into law. Previously, parents were forced to take a chance on seeking compensation through the courts, a process that sometimes took from six to eight years. The new system will settle claims within one year.

The new law states that beginning October 1, 1988, all liability claims against a vaccine administrator or manufacturer must first go through this compensation system. This program will award legitimate claimants an annuity that will include coverage of medical expenses; pain and suffering (up to \$250,000); and projected loss of income for the lifetime of the child. A parent must reject this award in order to go to court.

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Act
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Funding for this annuity will be derived from a federal vaccine trust fund. To create the fund, a surcharge on each vaccine dose has been levied against the manufacturers, beginning January 1, 1988. Per dose, the charge is currently set at \$4.56 for DTP (diphtheria-tetanus-pertussis), \$4.44 for MMR (measles-mumps-rubella) and \$.29 for polio.

The American Academy of Pediatrics (AAP) anticipates that at least part of these costs will be passed on to the consumer in the short term; although vaccine prices are expected to level off and be reduced in the long term.

"Although we are still unsure how much of the excise tax each manufacturer will pass on in increased prices, we feel this initial charge is the bullet we have to bite to get soaring vaccine prices under control," AAP president Richard Narkewicz, M.D., said. "Ultimately, we expect prices to decrease since manufacturers will be significantly relieved of liability under the new law."

The new law also puts a cap of 150 awards on the number of annual claims. This number is more than double the 60-80 permanent injuries that the Centers for Disease Control (CDC) estimates will occur.

Any child injured before October 1, 1988 who hasn't received a court judgement will be eligible for coverage of future medical expenses and up to \$30,000 in related expenses.

New recording and reporting requirements will be imposed with this new law. The AAP says they will most likely include:

- + recording the date of vaccine administration, vaccine manufacturer and lot number, and name and address of person administering the vaccine; and

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+ reporting the occurrence of any reaction listed on the package insert or on the Table of Compensable Events included in the law.

The AAP supported the new law, as did many major public health groups, the National PTA, state health officers and some vaccine companies.