

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3345

To amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Company v. Baker*.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2010

Mr. WHITEHOUSE (for himself, Mr. MENENDEZ, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Company v. Baker*.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Big Oil Polluter Pays  
5 Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) in the case styled *Exxon Shipping Co. v*  
9       *Baker*, 128 S. Ct. 2605 (2008), the Supreme Court

1 held that when reviewing jury awards for punitive  
2 damages under maritime law, courts should limit the  
3 punitive-to-compensatory damages ratio to 1:1;

4 (2) in that decision, the Court conceded that  
5 discretion to award punitive damages has not mass-  
6 produced runaway awards, and although some stud-  
7 ies show the dollar amounts of punitive-damages  
8 awards growing over time, even in real terms, by  
9 most accounts the median ratio of punitive-to-com-  
10 pensatory awards has remained less than 1:1;

11 (3) district and appellate courts have the au-  
12 thority under common law to reduce excessively  
13 large punitive awards; and

14 (4) punitive damages serve to punish reckless  
15 or worse behavior, deter future similar offenses, and  
16 compensate for intangible injuries that would not  
17 otherwise be available to 1 or more plaintiffs.

18 **SEC. 3. REMOVAL OF CAP FOR MARITIME PUNITIVE DAM-**  
19 **AGES.**

20 (a) IN GENERAL.—Chapter 301 of title 46, United  
21 States Code, is amended by adding at the end the fol-  
22 lowing:

23 **“§ 30107. Punitive damages in maritime law**

24 “In a civil action for damages arising out of a mari-  
25 time tort, punitive damages may be assessed without re-

1 gard to the amount of compensatory damages assessed in  
2 the action.”.

3 (b) CONFORMING AMENDMENT.—The analysis for  
4 chapter 301 of title 46, United States Code, is amended  
5 by adding at the end the following:

“Sec. 30107. Punitive damages in maritime law.”.

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