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.

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) in the case styled Exxon Shipping Co. v. Baker, 128 S. Ct. 2605 (2008), the Supreme Court
held that when reviewing jury awards for punitive damages under maritime law, courts should limit the punitive-to-compensatory damages ratio to 1:1;

(2) in that decision, the Court conceded that discretion to award punitive damages has not mass-produced runaway awards, and although some studies show the dollar amounts of punitive-damages awards growing over time, even in real terms, by most accounts the median ratio of punitive-to-compensatory awards has remained less than 1:1;

(3) district and appellate courts have the authority under common law to reduce excessively large punitive awards; and

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

SEC. 3. REMOVAL OF CAP FOR MARITIME PUNITIVE DAMAGES.

(a) In general.—Chapter 301 of title 46, United States Code, is amended by adding at the end the following:

"§ 30107. Punitive damages in maritime law

"In a civil action for damages arising out of a maritime tort, punitive damages may be assessed without re-
gard to the amount of compensatory damages assessed in
the action.”.

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

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