

Calendar No. 1077

110TH CONGRESS
2D SESSION**S. 3564****[Report No. 110–499]**

To restore the value of every American in environmental decisions, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Mrs. BOXER, from the Committee on Environment and Public Works, reported the following original bill; which was read twice and placed on the calendar

A BILL

To restore the value of every American in environmental
decisions, and for other purposes.

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 “Restoring the Value
5 of Every American in Environmental Decisions Act”.

1 **SEC. 2. VALUATION OF STATISTICAL LIFE IN ENVIRON-**
2 **MENTAL PROTECTION AGENCY DECISION-**
3 **MAKING.**

4 (a) FINDINGS.—Congress finds that—

5 (1) using a dollar value to establish the worth
6 of a human life as the basis of making decisions
7 about whether to take actions to protect humans
8 from dying from environmental pollution has been
9 controversial, because that practice—

10 (A) offends many deeply held religious,
11 moral, and ethical beliefs of people in the
12 United States;

13 (B) fails to sufficiently consider the long-
14 standing use of credible and accepted alter-
15 native decisionmaking tools, such as—

16 (i) health-based protections that use
17 the latest science to understand and ad-
18 dress serious health threats, including safe-
19 guards that seek to protect vulnerable indi-
20 viduals (such as pregnant women, infants,
21 children, and the elderly);

22 (ii) technology-forcing standards that
23 promote increased research and develop-
24 ment in effective, cutting-edge technologies
25 that can save lives by cutting costs while—

1 (I) reducing the use of dangerous
2 materials;

3 (II) preventing or reducing the
4 release of those materials into the en-
5 vironment; or

6 (III) creating new and safer sys-
7 tems or materials;

8 (iii) right-to-know safeguards that—

9 (I) inform families, communities,
10 workers, and others about known or
11 potential threats;

12 (II) enable those individuals and
13 communities to make decisions about
14 safety based on the information; and

15 (III) encourage emitters and
16 users of toxic chemicals to reduce the
17 emission and use of those chemicals;
18 and

19 (C) fails to promote the development and
20 improvement of other desirable methods of deci-
21 sionmaking;

22 (2) decisionmaking by the Environmental Pro-
23 tection Agency usually involves policy decisions and
24 legal standards, such as health-based protections,
25 technology-forcing standards, or right-to-know safe-

1 guards, rather than monetized values of life and ill-
2 nesses;

3 (3) Federal agencies should continue to con-
4 sider the nonquantifiable benefits of agency actions,
5 regardless of whether the number of deaths or ill-
6 nesses resulting from those actions can be quantified
7 or expressed in monetary terms;

8 (4)(A) there is a great difference between a vol-
9 untarily accepted risk and an involuntarily imposed
10 risk; and

11 (B) that difference renders the use of a value
12 of statistical life based on measures of voluntarily
13 accepted risks questionable as applied to involun-
14 tarily imposed risks; and

15 (5) as of the date of enactment of this Act, ap-
16 plicable value of statistical life methodologies do not
17 represent the full value of a human life, including
18 (among other issues) the concepts that—

19 (A) an individual may value another life
20 more than one's own, for example the lives of
21 family members or children;

22 (B) infants, children, and many other indi-
23 viduals do not have the ability to decide the ap-
24 propriate value of avoiding death;

1 (C) many studies of statistical life meth-
 2 odologies are based on a small subset of the
 3 population that may be willing to accept a high-
 4 er risk of death or illness for less compensation
 5 than other members of society; and

6 (D) differing economic situations or negoti-
 7 ating positions may falsely skew statistical life
 8 methodology estimates downward.

9 (b) VALUE OF STATISTICAL LIFE.—

10 (1) REQUIREMENT.—To the extent that the Ad-
 11 ministrator of the Environmental Protection Agency
 12 (referred to in this Act as the “Administrator”) uses
 13 in decisionmaking any value of statistical life, in-
 14 cluding the life of pregnant women, infants, chil-
 15 dren, and the elderly, the Administrator—

16 (A) shall not reduce that value below the
 17 highest value of statistical life used in a deci-
 18 sionmaking of the Administrator before the
 19 date of enactment of this Act; and

20 (B) shall increase that value not less fre-
 21 quently than once each calendar year, by ad-
 22 justing the value to reflect—

23 (i) the average annual total compensa-
 24 tion of individuals, including income and
 25 benefits;

1 (ii) the average capital that may be
 2 liquidated upon the death of an individual;
 3 and

4 (iii) the value of nonpaid activities, in-
 5 cluding the relevant activities described in
 6 the American Time Survey Results pub-
 7 lished by the Bureau of Labor Statistics of
 8 the Department of Labor.

9 (2) PROHIBITION.—The Administrator shall not
 10 decrease the value of statistical life used in a deci-
 11 sionmaking by the Administrator based on age, in-
 12 come, race, illness, disability, date of death, or any
 13 other personal attribute or relativistic analysis of the
 14 value of life.

15 (3) TRANSPARENCY REQUIREMENT.—The Ad-
 16 ministrator shall—

17 (A) ensure that the process of the Admin-
 18 istrator for establishing a value of statistical life
 19 under this subsection is conducted in a manner
 20 that is open to the public, including by—

21 (i) providing public notice and an op-
 22 portunity to comment for a period of at
 23 least 60 days on any proposed revision of
 24 a value of a statistical life;

1 (ii) explaining the process to the pub-
 2 lic using common, understandable terms;
 3 and

4 (iii) for each significant study upon
 5 which the Administrator relies, providing—

6 (I) a short description of the
 7 methodological strengths and weak-
 8 nesses of the study; and

9 (II) a description of the injury,
 10 illness, death, or other event used as
 11 a basis for the study; and

12 (B) provide to the Committee on Environ-
 13 ment and Public Works of the Senate and the
 14 Committee on Energy and Commerce of the
 15 House of Representatives, concurrently with the
 16 public notice described in subparagraph (A)(i),
 17 any proposed revision of a value of a statistical
 18 life.

19 (c) EFFECT OF SECTION.—Nothing in this section—

20 (1) expresses on behalf of Congress any en-
 21 dorsement of any—

22 (A) use of value of statistical life analysis
 23 as a decisionmaking criterion;

24 (B) cost-benefit analysis;

- 1 (C) regulatory decisionmaking threshold;
2 or
3 (D) single process of agency decision-
4 making;
5 (2) creates a duty to make or revise any stand-
6 ard under any other applicable law; or
7 (3) affects any substantive standard for pro-
8 mulgating regulations under any other applicable
9 law.

Calendar No. 1077

110TH CONGRESS
2^D Session

S. 3564

[Report No. 110-499]

A BILL

To restore the value of every American in
environmental decisions, and for other purposes.

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Read twice and placed on the calendar