

SENATE BILL NO. 2319

Introduced by

Senators Lyson, Christmann, C. Nelson

1 A BILL for an Act to create and enact a new subsection to section 32-03.2-11 of the North
2 Dakota Century Code, relating to exemplary damages for accidents involving motor vehicle
3 operators under the influence of alcohol or a controlled substance.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new subsection to section 32-03.2-11 of the 1997 Supplement to the
6 North Dakota Century Code is created and enacted as follows:

7 In a civil action involving a motor vehicle accident resulting in bodily injury, it is
8 sufficient for the trier of fact to consider an award of exemplary damages if the
9 preponderance of the evidence indicates that the accident was caused by a driver
10 who, for a second time in five years, was operating or in physical control of a motor
11 vehicle:

- 12 a. With an alcohol concentration of at least ten one-hundredths of one percent
13 by weight;
- 14 b. Under the influence of a controlled substance;
- 15 c. Under the influence of alcohol and refused to take a test required under
16 chapter 39-20; or
- 17 d. Knowingly under significant influence of a medication or other substance that
18 substantially affects a person's nervous system, brain, or muscles so as to
19 impair the person's ability to drive or operate a motor vehicle.

20 A criminal charge or conviction is not a prerequisite to consideration of exemplary
21 damages under this section. At the trial in an action in which the trier of fact will
22 consider an award of exemplary damages, evidence that the driver has been
23 convicted of violating section 39-08-01 or an equivalent statute or ordinance is
24 admissible into evidence.