

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2319
(Senators Lyson, Christmann, C. Nelson)

AN ACT to create and enact a new subsection to section 32-03.2-11 of the North Dakota Century Code, relating to exemplary damages for accidents involving motor vehicle operators under the influence of alcohol or a controlled substance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

In a civil action involving a motor vehicle accident resulting in bodily injury, it is sufficient for the trier of fact to consider an award of exemplary damages against the driver under the motion procedures provided in subsection 1 if clear and convincing evidence indicates that the accident was caused by a driver who, within the five years immediately preceding the accident has been convicted for violation of section 39-08-01 and who was operating or in physical control of a motor vehicle:

- a. With an alcohol concentration of at least ten one-hundredths of one percent by weight;
- b. Under the influence of a controlled substance unless a drug that predominantly caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to the driver;
- c. Under the influence of alcohol and refused to take a test required under chapter 39-20; or
- d. Under the influence of a volatile chemical as listed in section 12.1-31-06.

At the trial in an action in which the trier of fact will consider an award of exemplary damages, evidence that the driver has been convicted of violating section 39-08-01 or an equivalent statute or ordinance is admissible into evidence.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2319.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 96 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State