

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact subsection 9 of section 32-03.2-11 of the North Dakota  
2 Century Code, relating to exemplary damages.

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

4 **SECTION 1. AMENDMENT.** Subsection 9 of section 32-03.2-11 of the North Dakota  
5 Century Code is amended and reenacted as follows:

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

13 a. With an alcohol concentration of at least ~~ten~~ eight one-hundredths of one  
14 percent by weight;

15 b. Under the influence of a controlled substance unless a drug that  
16 predominantly caused impairment was used only as directed or cautioned by  
17 a practitioner who legally prescribed or dispensed the drug to the driver;

18 c. Under the influence of alcohol and refused to take a test required under  
19 chapter 39-20; or

20 d. Under the influence of a volatile chemical as listed in section 19-03.1-22.1.

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