

**SENATE BILL NO. 2319
with Conference Committee Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

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 against
9 the driver under the motion procedures provided in subsection 1 if clear and
10 convincing evidence indicates that the accident was caused by a driver who, within
11 the five years immediately preceding the accident has been convicted for violation
12 of section 39-08-01 and who was operating or in physical control of a motor
13 vehicle:

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

22 At the trial in an action in which the trier of fact will consider an award of exemplary
23 damages, evidence that the driver has been convicted of violating section
24 39-08-01 or an equivalent statute or ordinance is admissible into evidence.