PROPOSED AMENDMENTS TO HOUSE BILL NO. 1297

In lieu of the amendments to House Bill No. 1297 as printed on page 820 of the Senate Journal, House Bill No. 1297 is amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 32-03.2-11 of the North Dakota Century Code, relating to exemplary damages in civil actions for accidents involving a motor vehicle operated by a person while under the influence of alcohol or a controlled substance; to"

Page 1, line 2, after "damages" insert "; and to provide for application"

Page 1, line 17, after the second underscored comma insert "that there is sufficient evidence to support a finding by the trier of fact"

Page 1, after line 21, insert:

"**SECTION 2.** A new subsection to section 32-03.2-11 of the North Dakota Century Code is created and enacted as follows:

a. In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of exemplary damages if the preponderance of the evidence indicates that the accident resulted in bodily injury and was caused by a driver:

(1) With an alcohol concentration of at least ten one-hundredths of one percent by weight;

(2) Was under the influence of a controlled substance;

(3) Was under the influence of alcohol and refused to take a test required under chapter 39-20; or

(4) Was knowingly under significant influence of a medication or other substance that substantially affects a person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle.

b. A criminal charge or conviction is not a prerequisite to consideration of exemplary damages under this subsection. 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 equivalent ordinance is admissible into evidence.

SECTION 3. APPLICATION. This Act applies only to actions commenced after the effective date of this Act."

Renumber accordingly