

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2380

Introduced by

Senators W. Stenehjem, Christmann, C. Nelson, Yockim

Representatives Kerzman, Martin

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 in civil actions for accidents involving a
3 motor vehicle operated by a person while under the influence of alcohol or a controlled
4 substance.

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

6 **SECTION 1.** A new subsection to section 32-03.2-11 of the 1995 Supplement to the
7 North Dakota Century Code is created and enacted as follows:

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

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

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