

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1069
(Representative DeKrey)

AN ACT to amend and reenact subsection 9 of section 32-03.2-11 of the North Dakota Century Code, relating to exemplary damages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9. 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~~ eight 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 19-03.1-22.1.

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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1069.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 41 Nays 0 Absent 6

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State