

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 570

*An Act to amend the Code of Virginia by adding a section numbered 8.01-40.1, relating to punitive damages for persons injured by malicious or intoxicated driver.*

[H 974]

Approved April 9, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 8.01-40.1 as follows:**

*§ 8.01-40.1. Exemplary damages for persons injured by intoxicated drivers.*

*In any action for personal injury or death arising from the operation of a motor vehicle, engine or train, the finder of fact may, in its discretion, award exemplary damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.*

*A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume when the incident causing the injury or death occurred, (ii) at the time the defendant began, or during the time he was, drinking alcohol, he knew that he was going to operate a motor vehicle, engine or train and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff.*