

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 974]

5 Approved

6 Be it enacted by the General Assembly of Virginia:

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

8 *§ 8.01-40.1. Exemplary damages for persons injured by intoxicated drivers.*

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

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

ENROLLED

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