

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

577I0571

## SENATE BILL NO. 176

Introduced by: Senators de Hueck and Kloucek and Representatives Engels, Bartling, Burg, Christensen, Cutler, McCaulley, and Rave

1 FOR AN ACT ENTITLED, An Act to allow a claim for punitive damages in hit-and-run  
2 accident cases.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 21-1-4.1 be amended to read as follows:

5 21-1-4.1. In any claim alleging punitive or exemplary damages, before any discovery relating  
6 thereto may be commenced and before any such claim may be submitted to the finder of fact, the  
7 court shall find, after a hearing and based upon clear and convincing evidence, that there is a  
8 reasonable basis to believe that there has been willful, wanton or malicious conduct or a violation  
9 of § 32-34-3, on the part of the party claimed against.

10 Section 2. That § 21-3-2 be amended to read as follows:

11 21-3-2. In any action for the breach of an obligation not arising from contract, where the  
12 defendant has been guilty of oppression, fraud, or malice, actual or presumed, or a violation of  
13 § 32-34-3, or in any case of wrongful injury to animals, being subjects of property, committed  
14 intentionally or by willful and wanton misconduct, in disregard of humanity, the jury, in addition  
15 to the actual damage, may give damages for the sake of example, and by way of punishing the



1 defendant.