

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

583E0743

SENATE ENGROSSED NO. **SB 187** - 02/15/2001

Introduced by: Senators Bogue, Brown (Arnold), Daugaard, de Hueck, Diedrich (Larry),
Diedrich (Elmer), Duxbury, Hutmacher, Koetzle, Madden, McCracken,
Moore, Olson (Ed), Putnam, Sutton (Dan), Symens, Vitter, Volesky, and
Whiting and Representatives Madsen, Brown (Jarvis), Brown (Richard),
Burg, Derby, Flowers, Fryslie, Gillespie, Hanson (Gary), Hargens, Hennies
(Thomas), Jensen, Juhnke, Kooistra, McCaulley, McCoy, Monroe,
Nesselhuf, Olson (Mel), Pederson (Gordon), Peterson (Bill), Smidt, Solum,
Teupel, Valandra, Van Gerpen, and Van Norman

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to comparative
2 negligence.

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

4 Section 1. That § 20-9-2 be amended to read as follows:

5 20-9-2. In all actions brought to recover damages for injuries to a person's
6 property caused by the negligence of another, the fact that the plaintiff may have been guilty of
7 contributory negligence does not bar a recovery ~~when~~ if the contributory negligence of the
8 plaintiff was slight in comparison with the negligence of the defendant or defendants, but in such
9 case, the damages shall be reduced in proportion to the amount of plaintiff's contributory
10 negligence.

11 ~~— Notwithstanding Woods vs. City of Crooks, 559 N.W.2d 558 (SD 1997), the determination~~
12 ~~of whether the contributory negligence of the plaintiff was slight in comparison with the~~

1 ~~negligence of the defendant shall be made without disclosing any determination of percentage~~
2 ~~of plaintiff's fault by special interrogatory.~~

3 For the purposes of this section, slight in comparison means that the contributory negligence
4 of the plaintiff was less than forty percent of the total negligence of all parties. Any such
5 determination shall be made by disclosing the percentage of the parties' fault by special
6 interrogatory. The jury shall be instructed on the effects of the allocation of negligence.