

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

289R0430

SENATE BILL NO. 84

Introduced by: Senators Turbak Berry, Abdallah, Gillespie, Gray, Heidepriem, Maher, and Nelson and Representatives Cutler, Deadrick, Engels, Feinstein, Gosch, Hamiel, Kirkeby, McLaughlin, Rave, Romkema, Schlekeway, and Turbiville

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 or to that person's
6 property caused by the negligence of another, the ~~fact that the plaintiff may have been guilty of~~
7 plaintiff's contributory negligence does not bar a recovery ~~when~~ if the contributory negligence
8 of the plaintiff was ~~slight in comparison with~~ less than the negligence of the defendant or the
9 collective negligence of all the defendants, but in such case, the damages shall be reduced ~~in~~
10 proportion to the amount by the percentage of plaintiff's contributory 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~~
13 ~~negligence of the defendant shall be made without disclosing any determination of percentage~~
14 ~~of plaintiff's fault by special interrogatory.~~ In all cases where the issue of contributory



- 1 negligence on the part of the plaintiff is submitted to the finder of fact, the parties percentage
- 2 of negligence shall be set forth in a special interrogatory or finding of fact.