

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

707Q0211

HOUSE BILL NO. 1220

Introduced by: Representatives Feinstein, Burg, Engels, Killer, and Putnam and Senators Merchant, Gillespie, Haverly, and Howie

1 FOR AN ACT ENTITLED, An Act to provide an affirmative defense regarding a violation
2 involving an unchanging traffic-control device.

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

4 Section 1. That chapter 32-28 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A person operating a motorcycle who violates § 32-28-10 by entering or crossing an
7 intersection controlled by a traffic-control device against a red light has an affirmative defense
8 to that charge if the person establishes all of the following conditions:

- 9 (1) The motorcycle has been brought to a complete stop;
- 10 (2) The traffic-control device continues to show a red light for an unreasonable time;
- 11 (3) The traffic-control device is apparently malfunctioning or, if programmed or
12 engineered to change to a green light only after detecting the approach of a motor
13 vehicle, the device has apparently failed to detect the arrival of the motorcycle; and
- 14 (4) No motor vehicle or person is approaching on the street or highway to be crossed or
15 entered or is so far away from the intersection that it does not constitute an immediate



1 hazard.

2 The affirmative defense in this section applies only to a violation for entering or crossing
3 an intersection controlled by a traffic-control device against a red light and does not provide a
4 defense to any other civil or criminal action.