



## 2023 South Dakota Legislature

# Senate Bill 109

Introduced by: **Senator Nesiba**

1 **An Act to require employers to disclose compensation or range of compensation to**  
 2 **applicants and employees.**

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

4 **Section 1. That chapter 60-2 be amended with a NEW SECTION:**

5 A private employer with one hundred or more employees shall disclose in each job  
 6 posting the hourly or salary compensation or range of the hourly or salary compensation  
 7 and a general description of all benefits and other compensation to be offered to the hired,  
 8 promoted, or transferred applicant or employee. Such disclosure shall not affect the  
 9 applicant's ability to negotiate compensation or benefits.

10 For purposes of this section, the term, job posting, means any solicitation intended  
 11 to recruit job applicants for a specific, available position, whether done directly by an  
 12 employer or indirectly through a third party, and whether done electronically or with a  
 13 printed hard copy, that includes qualifications for desired applicants.

14 For purposes of this section, the term, range, means the minimum and maximum  
 15 annual salary or hourly rate for each job, promotion, or transfer opportunity that an  
 16 employer in good faith believes to be accurate at the time of the posting.

17 **Section 2. That chapter 60-2 be amended with a NEW SECTION:**

18 An employer shall keep and maintain necessary records to demonstrate compliance  
 19 with section 1 of this Act including the history of ranges of compensation for each job,  
 20 promotion, or transfer opportunity, and associated job descriptions, for the duration of  
 21 the employee's or applicant's employment.

22 **Section 3. That chapter 60-2 be amended with a NEW SECTION:**

23 Any person may report to the secretary of the Department of Labor and Regulation  
 24 a violation of section 1 of this Act. The report must be made in writing within one year

1 from the date of the job posting and must state the name and address of the employer  
2 and a detailed account of the alleged violation. The secretary shall investigate whether a  
3 violation of section 1 occurred.

4 **Section 4. That chapter 60-2 be amended with a NEW SECTION:**

5 If the secretary of the Department of Labor and Regulation determines that an  
6 employer has violated section 1 of this Act, the secretary must notify the employer of the  
7 violation. Upon notification, the employer shall be subject to a civil penalty of five hundred  
8 dollars for each violation, and the secretary shall have authority to institute legal  
9 proceedings for the recovery of the penalty. The civil penalty collected pursuant to this  
10 section shall be deposited into the state general fund.