2026 South Dakota Legislature

House Bill 1209

Introduced by: ***Representative*** *Garcia*

An Act to require employment verification eligibility through the e-verify program and to provide a penalty therefor.

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

Section 1. That a NEW SECTION be added to chapter 60-2:

Every employer, as defined in § 61-1-4, after hiring an employee, shall verify the employment eligibility of the employee through the United States Department of Homeland Security's e-verify program, and shall keep a record of the verification for the duration of the employee's employment.

An employer that does not register with and participate in the e-verify program may not receive any economic incentive from the state. The employer shall provide proof to the Department of Labor and Regulation that the employer is registered with and is participating in the e-verify program.

If the Department of Labor and Regulation determines that the employer is not complying with this section, the department must notify the employer by certified mail of the department's determination of noncompliance and of the employer's right to appeal the determination to a circuit court. If an employer declines to appeal the determination within thirty days or is unsuccessful in appealing the determination, then the department must issue a final determination of noncompliance, after which the employer must, within thirty days of the final determination, repay all moneys received as an economic incentive from the state.

For purposes of this section, "economic incentive" means any grant, loan, or performance-based incentive from any division or agency of government in this state, received by an employer within the preceding twelve months.

Section 2. That a NEW SECTION be added to chapter 60-2:

1 Any individual may not knowingly submit false information or documents to an
2 employer to evade determination of employment eligibility under the e-verify program.
3 A violation of this section is a Class 1 misdemeanor.