

2026 South Dakota Legislature

House Bill 1209**AMENDMENT 1209A
FOR THE INTRODUCED BILL**

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

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

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

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

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

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

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

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

1 The attorney general may, upon receipt of a complaint, investigate an alleged
2 violation of section 1 of this Act. If the attorney general deems the complaint meritorious,
3 the attorney general may recover a civil penalty of two-thousand dollars for each violation.
4 The attorney general shall forward to the state treasurer for deposit in the general fund
5 any civil penalty recovered pursuant to this section.

6 **Section 3. That a NEW SECTION be added to chapter 60-2:**

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