

## 2026 South Dakota Legislature

**House Bill 1209****AMENDMENT 1209B  
FOR THE HOUSE STATE AFFAIRS ENGROSSED 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, ~~with more than fifty employees,~~ after  
6 hiring an employee, shall, ~~within twenty days of the employee's first day of work,~~ verify  
7 the employment eligibility of the employee through the United States Department of  
8 Homeland Security's e-verify program, and shall keep a record of the verification for the  
9 duration of the employee's employment.

10 An employer is not liable for failure to timely comply with this section if the e-verify  
11 program is temporarily unavailable. Once the e-verify program becomes available again  
12 following a temporary pause, the employer has twenty days to verify the employment  
13 eligibility through the e-verify program.

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

15 The attorney general may, upon receipt of a complaint, investigate an alleged  
16 violation of section 1 of this Act. If the attorney general deems the complaint meritorious  
17 and receives written confirmation from the United States Department of Homeland  
18 Security or the United States Department of Justice that an employer has knowingly  
19 employed an unauthorized person in violation of federal immigration law, the attorney  
20 general may recover a civil penalty of two-thousand dollars for each violation. The  
21 attorney general shall forward to the state treasurer for deposit in the general fund any  
22 civil penalty recovered pursuant to this section.

23 An employer who uses the e-verify in good faith and maintains the verification  
24 record is not liable for any civil penalty arising from an employee's work authorization. An

1 employer is not liable for the actions of a third-party staffing agency, subcontractor, or  
2 labor contractor, unless the employer knowingly participated in a violation.

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

4 Any individual may not knowingly submit false information or documents to an  
5 employer to evade determination of employment eligibility under the e-verify program.

6 A violation of this section is a Class 1 misdemeanor.