

## 2026 South Dakota Legislature

**House Bill 1209****AMENDMENT 1209F  
FOR THE SENATE 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 twenty-five~~ employees  
6 ~~shall, after hiring an employee, shall, within twenty days of and no later than the tenth~~  
7 ~~day after~~ the employee's first day of work, verify the employment eligibility of the  
8 employee through the United States Department of Homeland Security's e-verify program,  
9 and shall keep a record of the verification for the 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 ten~~ 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 If upon investigation the attorney general has reasonable cause to determine that  
4 a violation of section 1 of this Act has occurred, the attorney general must commence a  
5 civil action in circuit court to recover a civil penalty in the amount of two thousand dollars  
6 per unauthorized or unverified employee. The attorney general shall forward any civil  
7 penalty collected under this section to the state treasurer for deposit in the general fund.

8 Nothing in this section prohibits the attorney general from initiating an  
9 investigation based on information from any other source.

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

11 ~~Any~~An individual may not knowingly submit false information or documents to an  
12 employer to evade a determination of employment eligibility under the e-verify program.

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