

2026 South Dakota Legislature

House Bill 1209**AMENDMENT 1209G
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 twentieth~~
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 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~~

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

If upon investigation the attorney general has reasonable cause to determine that a violation of section 1 of this Act has occurred, the attorney general must commence a civil action in circuit court to recover a civil penalty in the amount of two thousand dollars per unauthorized employee. The attorney general shall forward any civil penalty collected under this section to the state treasurer for deposit in the general fund.

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

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

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

A violation of this section is a Class 1 misdemeanor.