

SENATE BILL No. 295

By Committee on Commerce

1-18

1 AN ACT enacting the fair consideration of the unemployed act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through 7, and amendments thereto, shall be
5 known and may be cited as the fair consideration of the unemployed act.

6 Sec. 2. No employer, employment agency or labor organization shall
7 inquire into or shall use a job applicant's unemployment status or gap in
8 employment history as a basis to refuse to hire or to act with respect to
9 recruitment, hiring, promotion, renewal of employment, selection for
10 training or apprenticeship, discharge, discipline, tenure, or terms,
11 privileges, or conditions of employment.

12 Sec. 3. No employer, employment agency or labor organization,
13 including any agent or employee thereof, shall publish or cause to be
14 published in any newspaper, magazine or other periodical, broadcast or
15 cause to be broadcast by radio or television, or post electronically on the
16 internet an employment advertisement that includes any of the following:

17 (a) A statement or provision stating or suggesting that current
18 employment is a job qualification.

19 (b) A statement or provision stating or suggesting that an application
20 from a job applicant who is currently unemployed will not be considered
21 or reviewed and the applicant will not be considered for an interview or be
22 hired.

23 (c) A provision stating or suggesting that only applications for
24 employment from applicants who are currently employed will be
25 considered or reviewed.

26 Sec. 4. The provisions of sections 2 and 3, and amendments thereto,
27 shall not prohibit an employer, employment agency or labor organization
28 from:

29 (1) Granting a preference in employment decisions to current
30 employees of such employer, employment agency or labor organization; or

31 (2) requiring previous experience that is relevant to the employment.

32 Sec. 5. (a) Any employer, employment agency or labor organization,
33 including any agent or employee thereof, that violates any provision of this
34 act shall incur, in addition to any other penalty provided by law, a civil
35 penalty in an amount of up to \$5,000 for the first violation and, up to
36 \$10,000 for each subsequent violation.

1 (b) The secretary, upon a finding that any employer, employment
2 agency or labor organization, including any agent or employee thereof, has
3 violated any provision of this act, and amendments thereto, may impose a
4 penalty within the limits provided in this section, which penalty shall
5 constitute an actual and substantial economic deterrent to the violation for
6 which it is assessed.

7 (c) No penalty shall be imposed pursuant to this section except upon
8 the written order of the secretary to the employer, employment agency or
9 labor organization, including any agent or employee thereof, who
10 committed the violation. Such order shall state the violation, the penalty to
11 be imposed and the right of such employer, employment agency or labor
12 organization, including any agent or employee thereof, to appeal to a
13 hearing before the secretary. Within 15 days after service of the order, any
14 such employer, employment agency or labor organization, including any
15 agent or employee thereof, may appeal such order by making written
16 request to the secretary for a hearing thereon. Hearings under this
17 subsection shall be conducted in accordance with the provisions of the
18 Kansas administrative procedure act.

19 (d) Any action of the secretary pursuant to subsection (c) is subject to
20 review in accordance with the Kansas judicial review act.

21 Sec. 6. (a) This act shall be administered by the secretary.

22 (b) The secretary is hereby authorized to adopt rules and regulations
23 necessary to implement the provisions of this act. Such rules and
24 regulations shall be adopted and become effective on or before July 1,
25 2013.

26 (c) Any person who believes that any employer, employment agency
27 or labor organization, including any agent or employee thereof, has
28 violated any provision of this section, may file a complaint with the
29 secretary. Such complaint shall be in writing and signed by the individual
30 filing the complaint. The secretary shall review and may investigate any
31 such complaints. If, after an investigation, the secretary determines that a
32 violation of this section has occurred, the secretary shall notify the
33 employer, employment agency or labor organization, including any agent
34 or employee thereof, who has been found to be in violation of this section
35 that such employer, employment agency or labor organization, including
36 any agent or employee thereof, has been found to be in violation of this
37 section and subject to a civil penalty pursuant to section 5, and
38 amendments thereto.

39 Sec. 7. For the purposes of this act:

40 (a) "Employer" shall have the meaning ascribed to such term in
41 K.S.A. 44-313, and amendments thereto.

42 (b) "Employment agency" shall have the meaning ascribed to the
43 term "private employment agency" in K.S.A. 44-401, and amendments

1 thereto.

2 (c) "Labor organization" shall have the meaning ascribed to such
3 term in K.S.A. 44-802, and amendments thereto.

4 (d) "Gap in employment" means a period of time between periods of
5 employment during which a person was not employed.

6 (e) "Secretary" means the secretary of labor.

7 (f) "Unemployment" means the status of being unemployed or not
8 working for an employer.

9 Sec. 8. This act shall take effect and be in force from and after its
10 publication in the statute book.