AN ACT concerning employment practices; prohibiting employers and employment agencies from requiring or using compensation history of job applicants; amending K.S.A. 44-1009 and repealing the existing section.

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

Section 1. K.S.A. 44-1009 is hereby amended to read as follows: 44-1009. (a) It shall be an unlawful employment practice:

(1) For an employer, because of the race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which results in discrimination, segregation or separation without a valid business necessity.

(2) For a labor organization, because of the race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this act or because such person has filed a complaint, testified or assisted in any proceeding under this act.
(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's race, religion, color, sex, disability, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry.

(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committee to: (A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (B) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this act; (C) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control; (D) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association; (E) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof; (F) deny employment opportunities
to a job applicant or employee who is an otherwise qualified individual
with a disability, if such denial is based on the need to make reasonable
accommodation to the physical or mental impairments of the employee or
applicant; (G) use qualification standards, employment tests or other
selection criteria that screen out or tend to screen out an individual with a
disability or a class of individuals with disabilities unless the standard, test
or other selection criteria, as used, is shown to be job-related for the
position in question and is consistent with business necessity; or (H) fail to
select and administer tests concerning employment in the most effective
manner to ensure that, when such test is administered to a job applicant or
employee who has a disability that impairs sensory, manual or speaking
skills, the test results accurately reflect the skills, aptitude or whatever
other factor of such applicant or employee that such test purports to
measure, rather than reflecting the impaired sensory, manual or speaking
skills of such employee or applicant (except where such skills are the
factors that the test purports to measure).

(9) For any employer to:

(A) Seek to obtain, to obtain or to use genetic screening or testing
information of an employee or a prospective employee to distinguish
between or discriminate against or restrict any right or benefit otherwise
due or available to an employee or a prospective employee; or

(B) subject, directly or indirectly, any employee or prospective
employee to any genetic screening or test.

(10) (A) For any employer or employment agency to:

(i) Screen applicants based on their compensation histories,
including by requiring that an applicant's prior compensation satisfy
minimum or maximum criteria; or

(ii) Seek the compensation history of an applicant from the applicant
or a current or former employer for the purpose of setting compensation
to be offered to an applicant.

(B) For the purposes of this paragraph, if the employer can
demonstrate that the employment agency was informed of the
requirements of this section and instructed to comply, then the employer is
not liable for actions taken by an agency in violation of this paragraph,
unless there is a finding of a repeat violation with knowledge of the
employer.

(C) Nothing in this paragraph prohibits an employer or an
employment agency and an applicant from discussing and negotiating
compensation expectations provided that the employer or employment
agency does not request or require the applicant's compensation history as
part of that process.

(D) Nothing in this paragraph prohibits an employer or an
employment agency from seeking the applicant's compensation history
after an offer of employment with terms of compensation has been
extended to the applicant and accepted.

(b) It shall not be an unlawful employment practice to fill vacancies
in such way as to eliminate or reduce imbalance with respect to race,
religion, color, sex, disability, national origin or ancestry.

(c) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein being the owner, operator,
lessee, manager, agent or employee of any place of public accommodation
to refuse, deny or make a distinction, directly or indirectly, in offering its
goods, services, facilities, and accommodations to any person as covered
by this act because of race, religion, color, sex, disability, national origin or
ancestry, except where a distinction because of sex is necessary because of
the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from
discriminating under any provisions of this act, to aid, abet, incite, compel
or coerce the doing of any of the acts forbidden under this act, or to
attempt to do so.

(3) For any person, to refuse, deny, make a distinction, directly or
indirectly, or discriminate in any way against persons because of the race,
religion, color, sex, disability, national origin or ancestry of such persons
in the full and equal use and enjoyment of the services, facilities,
privileges and advantages of any institution, department or agency of the
state of Kansas or any political subdivision or municipality thereof.

Sec. 2. K.S.A. 44-1009 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.