AN ACT enacting the fair consideration of the unemployed act.

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

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

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

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

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

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

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

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

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

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

Sec. 5. (a) Any employer, employment agency or labor organization, including any agent or employee thereof, that violates any provision of this act shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to $5,000 for the first violation and, up to $10,000 for each subsequent violation.
(b) The secretary, upon a finding that any employer, employment agency or labor organization, including any agent or employee thereof, has violated any provision of this act, and amendments thereto, may impose a penalty within the limits provided in this section, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed.

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

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

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

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

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

Sec. 7. For the purposes of this act:

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

(b) “Employment agency” shall have the meaning ascribed to the term “private employment agency” in K.S.A. 44-401, and amendments
(c) “Labor organization” shall have the meaning ascribed to such term in K.S.A. 44-802, and amendments thereto.

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

(e) “Secretary” means the secretary of labor.

(f) “Unemployment” means the status of being unemployed or not working for an employer.

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