

Model Source-of-Income Employment Nondiscrimination Act

A model state or municipal law protecting workers from discrimination because of lawful outside income.

Policy area	Economic Justice / Workers' Rights
Type	Model State or Local Legislation
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What This Model Policy Does

Workers increasingly rely on second jobs, gig work, self-employment, online content creation, and other lawful sources of income. This model legislation prohibits employment discrimination based on a worker's lawful source of income, limits intrusive inquiries into lawful outside work, and creates meaningful enforcement mechanisms. It covers employees, independent contractors, freelancers, and other compensated workers.

The model preserves an employer's ability to address genuine conflicts of interest and outside work that materially interferes with essential job functions. Generalized concerns about reputation, public image, customer reactions, coworker preferences, or moral disapproval are not enough.

Key Protections

Broad coverage. Protects employees, independent contractors, freelancers, and other compensated workers.

Lawful outside income. Bars discrimination because of compensation from any legal occupation, profession, benefit, or enterprise.

Limits on inquiries. Restricts employer demands for disclosure of lawful outside income absent a direct and material conflict of interest.

Anti-retaliation. Protects workers who assert rights, file complaints, or participate in investigations or proceedings.

Meaningful remedies. Provides a private right of action, administrative enforcement, damages, attorney's fees, and other relief.

Workplace separation. Protects lawful outside work when it is kept separate from the workplace and does not materially interfere with essential job functions.

Drafting note. Bracketed language should be adapted to the relevant state or municipality. The model language below reproduces the bill published in *Moonlighting in the Margins*.

Model Language for a State or Municipal Source-of-Income Employment Nondiscrimination Act

§ 2. Findings and Purpose.

(a) Findings. The [Legislative Body] finds the following:

1. Many workers lawfully earn supplemental income through gig platforms, online content creation, self-employment, and other nontraditional work in order to make ends meet.
2. Discrimination based on lawful outside income undermines economic mobility, harms workers and their families, and perpetuates stigma. These harms are felt most by workers who are low-income, disabled, members of the LGBTQ+ community, and people of color.
3. Empirical and anecdotal evidence demonstrate that workers who engage in lawful outside work, including gig and online labor, face discrimination, harassment, and termination based on the nature of that work. Similar patterns of bias have been documented in housing markets, but have been reduced through source-of-income nondiscrimination laws. These patterns will continue in working arrangements absent legislative intervention.
4. Existing employment discrimination statutes are not sufficiently expansive to protect all workers from lawful sources of income discrimination.
5. This [state or municipality] has a compelling interest in preventing and remedying such discrimination and in ensuring workers do not face retaliation for merely earning supplemental income from any legal source.

(b) Purpose. The purpose of this Act is to prohibit discrimination against workers in employment based on any lawful source of income and to ensure equal opportunity in employment and contracting relationships.

§ 3. Definitions.

(a) "Hiring entity" means any employer, employment agency, labor organization, person, or organization that hires or contracts with one or more workers.

(b) "Worker" means any individual who performs work for a hiring entity for compensation, whether as an employee, independent contractor, freelancer, or as part of some other work arrangement.

(c) "Lawful source-of-income" means any compensation earned from any legal occupation, profession, benefit, or enterprise, including gig work, self-employment, online content creation, and all other forms of labor.

§ 4. Prohibited Conduct.

(a) A hiring entity may not refuse to hire, discharge, demote, discipline, harass, or otherwise discriminate against a worker or applicant wholly or partly because of that individual's lawful source-of-income.

(b) A hiring entity may not publish or circulate any statement, advertisement, or inquiry that expresses a limitation or preference based on a lawful source-of-income that would violate this Act.

(c) No employer shall inquire into, require disclosure of, or use information about an employee's lawful source-of-income as a condition of hiring, promotion, or continued employment, unless the employer can

demonstrate, based on clear and specific evidence, that the outside work creates a direct and material conflict of interest substantially related to the employee's essential job duties. A conflict of interest shall not be inferred from general reputational concerns, customer or coworker preferences, or speculative assessments of potential workplace disruption.

§ 5. Retaliation Prohibited

It shall be an unlawful discriminatory practice for an employer to retaliate or discriminate against any employee for asserting rights under this Act, for filing a complaint, or for participating in any investigation or proceeding under this Act.

§ 6. Remedies and Enforcement.

(a) Private Right of Action. Any worker aggrieved by a violation of this Act may bring a civil action in any court of competent jurisdiction against the hiring entity or person alleged to have violated this Act.

(b) Relief. In such an action, the court may award any appropriate relief, including but not limited to:

1. Injunctive relief;
2. reinstatement or hiring, with or without back pay;
3. compensatory damages, including for emotional distress or reputational harm;
4. punitive damages where the violation is willful or malicious; and
5. reasonable attorney's fees and costs.

(c) Administrative Complaints. A worker may file a complaint with [state or municipal human rights agency], which shall have authority to investigate, mediate, and enforce violations under this Act. The filing of an administrative complaint shall not preclude a subsequent civil action.

(d) Limitations Period. A civil action under this Act shall be commenced within three years after the alleged violation or the exhaustion of administrative proceedings, whichever is later.

§ 7. Savings Clause

Nothing in this Act shall be construed to require or permit any activity that is prohibited by federal law. This Act shall be enforced to the maximum extent permissible under federal law, and any invalid provision shall be severable to preserve the remainder.

(a) Conflict-of-Interest Policies. Nothing in this Act shall be construed to prohibit a hiring entity from enforcing bona fide conflict-of-interest policies, provided that such policies are narrowly tailored to advance a legitimate business interest, are applied consistently to all workers, and are not used as a pretext for discrimination based on a worker's lawful source-of-income.

(b) Workplace Separation. A hiring entity may not take adverse action against a worker based on lawful outside work if the worker keeps such work separate from the hiring entity's workplace, does not use the hiring entity's resources or work time to perform that work, and the outside work does not materially interfere with the worker's essential job functions. Generalized concerns about customer or coworker reactions, public image, reputational risk, or the nature of the lawful outside work shall not, standing alone, constitute a material interference under this subsection.

(c) Preservation of Other Rights. Nothing in this Act shall be construed to limit, restrict, or preempt any broader rights, remedies, or protections available under federal, state, or local law.

About This Model

This model legislation originally appeared in Jared M. Trujillo, *Moonlighting in the Margins: Protecting the Rights of Workers Engaged in Lawful Off-Duty Online Sex Work*, 114 *Georgetown Law Journal* 1445 (2026).

This resource is intended for advocates, policymakers, researchers, and communities. Model legislation should be adapted to the constitutional, statutory, administrative, and drafting requirements of the relevant jurisdiction.