

# The Subminimum Wage Crisis

# Is An LGBTQ Worker Crisis

June 2024

# INTRODUCTION



ride month is an important time each join for members of the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) community. June 13 in particular holds a special place this year as LGBTQ Equal Pay Awareness Day — shining a spotlight on the low wages LGBTQ workers face. With the Human Rights Campaign reporting that the restaurant and food service industry is the largest employer of LGBTQ people in the country — employing 15 percent of all LGBTQ workers — one cannot separate LGBTQ economic insecurity and the subminimum wage for tipped workers.<sup>1</sup>

The subminimum wage for tipped workers is a direct legacy of slavery that continues to impact vulnerable workers in 43 states. Previous reports by One Fair Wage have shown that the subminimum wage is harmful to tipped workers' economic security, creates a culture of sexual harassment in the workplace, and fosters large wage gaps by race and gender. One Fair Wage's latest analysis of survey data of restaurant workers shows that

the subminimum wage for tipped workers encourages rampant homophobia and transphobia in the restaurant industry.



As the largest employer of tipped workers, the restaurant industry employs a subminimum wage workforce that is disproportionately members of the LGBTQ community. LGBTQ restaurant workers report that since the pandemic, they have faced even greater economic instability and challenges accessing health care, and that sexual harassment, homophobia, and transphobia have only gotten worse since the pandemic.

In 2022, One Fair Wage reported on the experiences of LGBTQ tipped restaurant workers. The report detailed that LGBTQ tipped workers encountered all the same challenges other tipped subminimum wage workers face, while also facing the highest levels of harassment and discrimination by a marginalized group documented in a One Fair Wage survey.<sup>2</sup>

This report details the findings of a new set of surveys of tipped workers surveyed from 2023 through 2024, and includes not only these workers' general experiences but also

their experiences of gender and race discrimination and COVID impacts in the sector.<sup>3</sup> One Fair Wage's most recent survey shows that LGBTQ-tipped restaurant workers continue to report greater economic instability, hostility at work, COVID infections, and challenges accessing health care than their non-LGBTQ peers.

## KEY FINDINGS

### **1. LGBTQ workers are overrepresented in the restaurant industry and face greater economic struggles with lower tips and more wage theft since the pandemic than their non-LGBTQ peers.**

In One Fair Wage's latest survey, 367 tipped restaurant workers identified as LGBTQ, and represent 1 in 5 tipped restaurant workers surveyed (20 percent).<sup>4</sup> This percentage closely aligns with the One Fair Wage March 2022 survey, which reported that 18 percent of tipped restaurant workers surveyed identified as LGBTQ.<sup>5</sup> Both surveys suggest that LGBTQ individuals are overrepresented among tipped workers, since the percentage of tipped workers surveyed who identify as LGBTQ is more than double the rate of the U.S. population that identifies as LGBTQ in polling by Gallop in 2024 (7.6 percent).<sup>6</sup>



Of LGBTQ-tipped workers surveyed in 2023-2024, 55 percent reported they were considering leaving the industry because wages and tips are too low, compared to 46 percent of their non-LGBTQ peers.<sup>7</sup> In addition, 59 percent of LGBTQ workers reported their tips had declined since the start of the pandemic, compared to just 43 percent of their non-LGBTQ peers. These workers also reported higher levels of wage theft; 18 percent of LGBTQ workers reported their employer had withheld or distributed their tips illegally, compared to just 8 percent of their non-LGBTQ peers.<sup>8</sup>

### **2. LGBTQ workers were more likely to report increased customer harassment and hostility since the pandemic than their heteronormative peers.**

In 2022, over half of all survey respondents (58 percent) reported that they experienced or witnessed transphobic or homophobic comments or behaviors from customers, supervisors, or colleagues.<sup>9</sup> With 81 percent of LGBTQ respondents from that survey reported they experienced or witnessed transphobic or homophobic comments or behavior from customers, supervisors, or colleagues, compared with 41 percent of straight respondents.<sup>10</sup>

In One Fair Wage's latest survey, LGBTQ workers reported harassment and hostility had increased since the start of the pandemic in all forms One Fair Wage asked. Nearly four

in ten (39 percent) of LGBTQ workers reported increased hostility from customers on the basis of their sexual orientation and/or gender identity. Over half of LGBTQ workers (51 percent) reported increased hostility based on their gender or race, compared to 26 percent of their non-LGBTQ peers.<sup>11</sup>

### **3. LGBTQ workers surveyed reported a higher risk of contracting COVID-19 and greater barriers to accessing healthcare**

In the latest One Fair Wage survey, 55 percent of LGBTQ workers told One Fair Wage they contracted COVID (with 43 percent of LGBTQ workers who contracted COVID stating they caught the virus on the job) compared to 34 percent of their straight peers (with 38 percent who reporting they were infected while on the job).<sup>12</sup>

Not only did LGBTQ workers self-report higher rates of COVID-19 infection, but they also had greater difficulty accessing health care than their non-LGBTQ peers. Of tipped LGBTQ workers surveyed, 60 percent said they had skipped visits to see a doctor because of a lack of access to healthcare or because the co-pay was too costly compared to 38 percent of their non-LGBTQ peers.<sup>13</sup> In addition, 62 percent of LGBTQ tipped workers said shifts at work interfered with their ability to go to a doctor's appointment compared to 40 percent of their non-LGBTQ peers. Nearly three-quarters (71 percent) of LGBTQ workers reported they have had to work while sick, compared to 49 percent of their non-LGBTQ peers.<sup>14</sup> LGBTQ workers were also more likely than their non-LGBTQ peers to report one of the reasons they were considering leaving the industry was lack of paid sick leave (28 percent vs. 16 percent).<sup>15</sup>



## **BACKGROUND AND CONTEXT**

The mistaken public perception of LGBTQ affluence is well-documented.<sup>16</sup> However, the reality is that many LGBTQ people face economic hardships. According to research by the Human Rights Campaign, LGBTQ people in the United States are more likely than the general population to have experienced a reduction in work hours during the pandemic, with 30 percent of LGBTQ respondents stating that their work hours were reduced, compared to 22 percent of the general population.<sup>17</sup> Many LGBTQ workers were in industries highly impacted by COVID-19.<sup>18</sup>

According to the Human Rights Campaign, more than 5 million LGBTQ employees might have been affected by the pandemic, and LGBTQ workers were more likely to hold jobs that involved exposure to COVID-19 infection and/or economic insecurity than non-LGBTQ workers. The Human Rights Campaign estimated that the number one employer



of LGBTQ workers is the restaurant and food services industry (2 million) and another 1 million work in hospitals.<sup>19</sup>

Compared to their non-LGBTQ counterparts, LGBTQ individuals tend to earn less money and are more likely to rent rather than own their homes. LGBTQ Americans are more likely to live in poverty with 22 percent living below the poverty line compared to 16 percent of their straight counterparts.<sup>20</sup> The Williams Institute of UCLA has documented

that economic instability has permeated nearly every corner of the LGBTQ community. Gay and Bisexual men consistently report lower incomes than their straight peers, and LGBTQ people of color face even greater economic inequality than their white LGBTQ counterparts.<sup>21,22</sup> The two groups within the community at greatest risk of poverty are Lesbians in same-sex relationships and Black LGBTQ people.<sup>23,24</sup>



There also exists a significant wealth gap between straight and LGBTQ individuals as evidenced by the fact that one in four (25 percent) of straight people rent their homes compared to 41 percent of LGBTQ people.<sup>25</sup> According to the Williams Institute, if the minimum wage was raised to \$15 per hour, the poverty rate for same-sex couples would drop by more than a third.<sup>26</sup>

LGBTQ workers regularly report high levels of discrimination in the workplace, which is compounded by subminimum wage jobs that force these workers to rely on the biases of customers to feed their families in tips. In a survey by the Williams Institute conducted in the spring of 2021, over one in four (30 percent) of LGBTQ employees reported experiencing at least one form of employment discrimination (being fired or not hired) because of their sexual orientation or gender identity at some point in their lives.<sup>27</sup> One-third (33 percent) of LGBTQ employees of color and one-quarter (26 percent) of white LGBTQ employees reported experiencing employment discrimination because of their sexual orientation or gender identity.

In terms of hiring experiences, 29 percent of LGBTQ employees of color and 18 percent of white LGBTQ employees reported not being hired based on their LGBTQ status.<sup>28</sup> Nearly half (49 percent) of Transgender employees reported experiencing discrimination based on their LGBTQ status compared to 28 percent of cisgender LGB employees. Twice as many transgender employees reported not being hired (44 percent) because of their LGBTQ status compared to LGB employees (22 percent).<sup>29</sup>

All but seven states — Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington — allow employers to pay their tipped workers subminimum wages. As a result, nearly 1 in 5 (19 percent) of workers in the restaurant industry in same-sex relationships live in poverty; nearly 25 percent are below 200 percent of the poverty line.<sup>30</sup>



## LGBTQ WORKERS AND THE SUBMINIMUM WAGE FOR TIPPED WORKERS

In Washington, DC — a place that has a higher concentration of LGBTQ residents than any state, voters overwhelmingly approved (74 percent) ending the subminimum wage for tipped workers in 2022.<sup>31,32</sup> In 2023, Chicago lawmakers continued the momentum and voted to enact city legislation to end the subminimum wage beginning July 1, 2024.<sup>33</sup> This fall, ballot initiatives to end the subminimum wage will be voted on in Massachusetts, Arizona, and Ohio.

The subminimum wage forces tipped workers into economic instability by allowing employers to pay only a fraction of workers' incomes with consistent wages, forcing them to rely on tips for the majority of their income and making it nearly impossible for workers to anticipate what their paychecks will look like week-to-week. This reliance on tipping also forces workers to tolerate sexual harassment and racist, homophobic, and transphobic hostility from customers because they know that if they reprimand customers, they will jeopardize their income.<sup>34</sup>

Overrepresented in the restaurant industry, LGBTQ workers are also faced with higher rates of sexual harassment, discrimination, homophobia, and transphobia than their cis/straight counterparts.<sup>35</sup>



### **LGBTQ workers are overrepresented in the restaurant industry and face greater economic struggles with lower tips and more wage theft since the pandemic than their non-LGBTQ peers.**

One Fair Wage surveyed tipped workers across the country from June 11, 2022 to August 4, 2023, with the support of the Robert Wood Johnson Foundation. This survey focused on worker experiences since the pandemic. Of these workers One Fair Wage surveyed, 367 tipped restaurant workers identified as LGBTQ, and represented 20 percent of workers that identified a sexual orientation or gender identity.<sup>36</sup> This percentage aligns with One Fair Wage's March 2022 survey, in which 18 percent of tipped restaurant workers identified as LGBTQ.<sup>37</sup> Both surveys suggest that the LGBTQ people in the tipped workforce is more than double the percentage of the U.S. population that identifies as LGBTQ in polling by Gallop in 2024 (7.6 percent).<sup>38</sup> On top of these findings, as mentioned above, the Human Rights Campaign reports that the largest employer of LGBTQ workers is the restaurant and food service industry.<sup>39</sup>

Over half (55 percent) of LGBTQ tipped workers surveyed over the last year reported that the top reason they were considering leaving the restaurant industry was low wages and tips, compared to 46 percent of their non-LGBTQ peers. In addition, 59 percent of LGBTQ workers reported their tips had declined since the start of the pandemic,

compared to just 43 percent of their non-LGBTQ peers. These workers also reported more wage theft challenges, with 18 percent of LGBTQ workers reporting their employer had withheld or distributed their tips illegally compared to 8 percent of their non-LGBTQ peers.



**LGBTQ workers reported they were more likely to have reported increased harassment and hostility since the pandemic than their heteronormative peers.**

Anti-LGBTQ hate and harassment have been frequently documented in the restaurant industry, largely because the subminimum wage for tipped workers forces these workers to tolerate inappropriate customer behavior in order to earn their incomes in customer tips. Dependence on tips makes LGBTQ workers — along with all other subminimum wage workers — vulnerable to harassment and even assault.<sup>40</sup>

These issues are so rampant that when One Fair Wage surveyed workers in 2022, a majority of all workers surveyed (58 percent), both LGBTQ and non-LGBTQ, reported that

they experienced or witnessed transphobic or homophobic comments or behaviors from customers, supervisors, or colleagues.<sup>41</sup> Of LGBTQ respondents, they were more likely to have experienced or witnessed such discrimination; 81 percent of LGBTQ respondents said they experienced or witnessed transphobic or homophobic comments or behavior from customers, supervisors, or colleagues, compared to only 41 percent of straight respondents.<sup>42</sup> This data demonstrates that homophobia and transphobia are commonplace in the industry and that a vast majority of LGBTQ workers face extremely high rates of harassment.



In One Fair Wage's newest survey, LGBTQ workers reported harassment and hostility had increased since the start of the pandemic in all forms. Nearly four in ten (39 percent) of LGBTQ workers reported experiencing increased

hostility on the basis of sexual orientation and/or gender identity since the pandemic began. LGBTQ workers were also more likely to have reported increased hostility based on their gender or race (51 percent) compared to their non-LGBTQ peers (26 percent).<sup>43</sup>

These findings align with previous surveys, in which LGBTQ tipped workers reported some of the highest levels of sexual harassment of any group of tipped workers surveyed. In 2022, 82 percent of LGBTQ respondents reported witnessing or experiencing sexual behaviors or comments that make them uncomfortable or feel unsafe at work, compared to 67 percent of their non-LGBTQ peers, and 72 percent of LGBTQ workers reported that this harassment made them consider leaving their jobs, compared with 41 percent of straight workers.<sup>44</sup>





In 2018, ROC United conducted an LGBTQ workers' survey in the Midwest with support from LGBT MAP. They found that LGBTQ restaurant workers face verbal abuse, unfair treatment, and unfair discipline due to their gender identity or sexual orientation.<sup>45</sup> One-third of workers surveyed reported experiencing verbal abuse including slurs and threats; had been given less favorable shifts, passed over for promotion, or paid less than others; and had been unfairly disciplined more often than others due to their gender identity or sexual orientation. This was higher than the norm ROC United

usually found in their national sample of restaurant workers, where only 15 to 20 percent of workers reported experiencing unfavorable treatment or discipline.<sup>46</sup>

LGBTQ survey respondents noted that the majority of verbal abuse, physical abuse, and unfair treatment came from customers, followed by co-workers, and management. Experiences with sexual harassment were nearly universal; half of respondents noted that they had complained to management about abusive experiences related to their identity or orientation, and a third noted they were penalized for doing so.<sup>47</sup>

These findings align with general trends in LGBTQ experiences in the workplace. In a survey by the Williams Institute, more than one-third (38 percent) of LGBTQ workers reported experiencing at least one form of harassment at work because of their sexual orientation or gender identity at some point in their lives.<sup>48</sup> One in five (21 percent) LGBTQ employees reported experiencing physical harassment because of their sexual orientation or gender identity.<sup>49</sup> LGBTQ employees of color were also significantly more likely to report experiencing verbal harassment (36 percent versus 26 percent) at work because of their sexual orientation or gender identity than white LGBTQ employees.<sup>50</sup> Transgender employees were significantly more likely to report experiencing verbal harassment over the course of their careers than cisgender LGB employees (44 percent compared to 30 percent).<sup>51</sup> One in four (26 percent) of LGBTQ employees reported experiencing sexual harassment in the workplace because of their sexual orientation or gender identity at some point in their careers.<sup>52</sup>



### **LGBTQ workers surveyed reported higher rates of COVID-19 infection and greater barriers to accessing healthcare than their non-LGBTQ peers.**

Prior to the pandemic, many LGBTQ workers worked in industries that ended up being highly impacted by COVID-19.<sup>53</sup> Estimates indicate more than 5 million LGBTQ employees might have been affected by the pandemic. Of industries in which LGBTQ workers held jobs, 40 percent involved more exposure to COVID-19 infection and/or economic insecurity than other occupations.<sup>54</sup>



Many LGBTQ workers are concentrated in the service sector, with an estimated 2 million LGBTQ employees in restaurant and food services nationwide.<sup>55</sup> Another 1 million LGBTQ people in the U.S. are estimated to work in hospitals.<sup>56</sup> For many workers, these conditions impacted and complicated their COVID-19 pandemic experience and re-

sulted in a significant reduction of working hours, with 30 percent of workers having their work hours reduced and 12 percent becoming unemployed.<sup>57</sup> In the restaurant industry alone, over 6 million workers lost their jobs at the height of the pandemic.<sup>58</sup>



One Fair Wage's latest survey affirmed this data. LGBTQ tipped restaurant workers were more likely to self-report that they contracted COVID-19 than their non-LGBTQ peers and more likely to say they caught it at work: 55 percent of LGBTQ tipped workers told One Fair Wage they contracted COVID-19, compared to 34 percent of their straight peers.<sup>59</sup> Of those who said they contracted COVID-19, 43 percent of LGBTQ tipped workers said they caught the virus on the job, compared to 38 percent of their non-LGBTQ peers.<sup>60</sup>

Not only did LGBTQ workers self-report higher rates of COVID-19 infection, but they also reported greater difficulty accessing health care than their non-LGBTQ peers. Of tipped LGBTQ workers surveyed, 60 percent said they had skipped visits to see a doctor because of a lack of access to healthcare or because the co-pay was too costly, compared to 38 percent of their non-LGBTQ peers.<sup>61</sup>

In addition, 62 percent of LGBTQ tipped workers said shifts at work interfered with their ability to go to a doctor's appointment, compared to 40 percent of their non-LGBTQ peers. Nearly three-quarters (71 percent) of LGBTQ workers reported they have had to work while sick, compared to 49 percent of their non-LGBTQ peers.<sup>62</sup> LGBTQ workers were also more likely than their non-LGBTQ peers to report one of the reasons they were considering leaving the industry was lack of paid sick leave (28 percent vs. 16 percent).<sup>63</sup>

## CONCLUSION

One Fair Wage's continued research on the experiences of LGBTQ workers mirrors many findings being seen by others researching the subject while adding unique insights into the lived experiences of LGBTQ tipped restaurant workers.

The Equality Act is critical legislation needed to expand civil rights to protect LGBTQ individuals from discrimination in employment, housing, credit, jury duty, and federally funded programs for health and education, yet civil rights legislation is toothless without the economic security workers need from living wages and economic stability.

One-third of LGBTQ Americans, and 3 in 5 Transgender Americans, experienced

discrimination in 2019. It is clear that nondiscrimination policies are needed, but rampant discrimination cannot be stopped with nondiscrimination laws alone. Economic policy that provides LGBTQ workers with power in the workplace to reject discrimination and harassment is essential to prevent such harassment and harm — rather than just providing LGBTQ workers with the ability to sue after the harassment occurs.<sup>64</sup>

In restaurants, discrimination against LGBTQ workers has been rampant for decades. Even worse, this rampant homophobic and transphobic harassment occurs in an industry

that is disproportionately LGBTQ. All of these data points indicate that One Fair Wage policy is thus essential to reduce harassment against LGBTQ workers.

It is time to recognize the reality of economic hardship faced by an overwhelming number of LGBTQ workers nationwide, and understand the critical nature of policies like ending the subminimum wage for tipped workers to the LGBTQ population.<sup>65</sup> LGBTQ people are also indicating similar concerns to pollsters. In March 2024, ABC News reported that the number one electoral concern for LGBTQ voters was the economy.<sup>66</sup>

Our research supports the premise that passing One Fair Wage, a full minimum wage with tips on top, will help LGBTQ individuals who have been struggling for years to rise above poverty levels and level the playing field for all low-wage workers.

One Fair Wage's research also brings up an important question this Pride season: When LGBTQ advocacy organizations' own findings conclude that the largest employer of their community is the restaurant industry, and both their research and One Fair Wage's research all point to the strong need to raise wages for these workers, one must ask, what responsibility do they have to join the fight for fair wages?



## APPENDIX: METHODOLOGY

Data about worker experiences comes from a survey of respondents who reported that they are current restaurant workers who work in a position that receives tips results collected between June 11, 2022 to August 4, 2023 by One Fair Wage organizers of workers outside restaurants and email surveys to the COVID-19 Tipped and Service Workers' Emergency Relief Fund applicant pool of tipped service workers in various states. This data is not exhaustive.

# ENDNOTES

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