



Maryland Workers Demand **One Fair Wage**



INTRODUCTION

Maryland workers won a major victory in 2023 — an increase in the minimum wage to \$15 by 2025, joining the ranks of over a dozen states that have adopted a path to a \$15 or higher minimum wage.¹ While this is great news for the 174,500 workers earning minimum wage, a major demographic, tipped workers, will see their circumstances worsen.²

Tipped workers in Maryland still earn a subminimum wage of just \$3.63 an hour, a direct legacy of slavery that results in this workforce that is overwhelmingly women and disproportionately women of color earning almost 75 percent less than other workers.³ Thus, while the Maryland wage is set to go up for most workers, close to 105,000 workers will actually see a decrease in their wages relative to others' wages, and relative to the rising cost of living.⁴

As a result of this carve-out, Maryland restaurant owners are receiving a 75 percent wage subsidy from customer tips, a loophole that advantages them over every other industry that has to comply with minimum wage laws. Even though the law stipulates that employers need to ensure that customer tips bring tipped workers up to the minimum wage, or make up the difference, the US Department of Labor has declared the issue 'unenforceable'.⁵



Nationwide, given a post-pandemic moment of worker leverage, in which employers are raising wages in the marketplace in order to recruit staff, tipped workers across the country are demanding and winning policy requiring a full minimum wage with tips on top.

New data from surveys of Maryland tipped workers in late 2023 and early 2024 shows that 96 percent of Maryland tipped workers are demanding a full minimum wage with tips on top more than any group of workers ever surveyed or polled on the issue nationally. This is especially true given:

- 1) these tipped workers reporting ongoing experiences of poverty, economic instability and wage theft;**
- 2) national momentum worker wage increases, including for other workers in Maryland and a clearly positive experience for tipped workers in neighboring Washington, DC; and**
- 3) consumer backlash against tactics of the oppositional National Restaurant Association, more Maryland tipped workers.**

KEY FINDINGS

One Fair Wage surveyed nearly 200 Maryland tipped workers in late 2023 and early 2024 by approaching them near the restaurants and bars at which they worked and conducting confidential surveys with them. **Ninety-six percent of workers said they support a policy requiring their employers to pay at least a full minimum wage with tips on top — the highest level of support ever recorded for any group of tipped workers anywhere in the country.** This level of support is not surprising given the conditions facing these workers and a moment of national momentum on the issue.

- 1 | As confirmed by government data, more than half of all Maryland tipped workers report either not receiving the full minimum wage with tips on top, or not knowing whether their tips regularly brought them to the full minimum wage.**

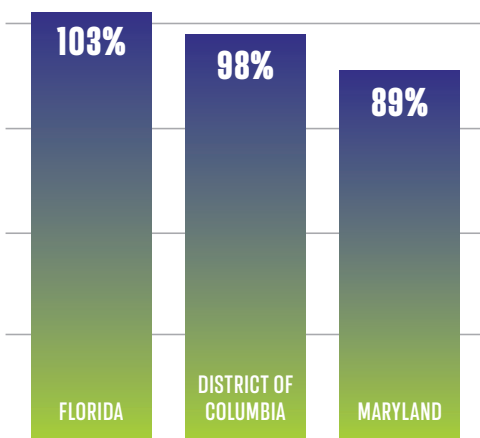
Almost one in four of tipped workers surveyed (24 percent) said they regularly experience tips and wages not bringing them to the full minimum wage, and another one-third (33 percent) of these workers said they were unsure. Only 43 percent of restaurant workers surveyed by One Fair Wage stated they believed their tips and base pay always brought them to at least the full minimum wage.⁶

- 2 | There is national momentum for one fair wage policy; in neighboring Washington, DC, tipping and restaurant jobs continue to grow one year after passing I-82.**

One Fair Wage policy has passed in seven states plus Flagstaff, AZ, Washington, DC and Chicago, and is now moving in more than a dozen states nationally.⁷ More than one year after the passage of Initiative 82, which is increasing tipped workers' wages in the District of Columbia until they receive the full minimum wage with tips on top, the District of Columbia's restaurant industry continues to see restaurant establishment, restaurant jobs, and restaurant worker growth and steady tipping averages.⁸

FIGURE 1

Full-Service Restaurants Workforce
December 2023 As A Percentage Of
Pre-Shutdown Employment Levels



Source: U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis, All Employees: Leisure and Hospitality: Food Services and Drinking Places in Florida, Maryland, and the District of Columbia.^{11,12,13}

The latest monthly jobs report for full-service restaurants in DC is the highest monthly employment number for the industry in Washington, D.C. since February 2020, the last monthly jobs report before the pandemic shutdowns (29,300 jobs reported in December 2023, and 30,000 jobs in February 2020).⁹ In fact, while Washington, D.C. has recovered to 98 percent of pre-pandemic levels, neighboring Maryland continues to have over 11 percent fewer workers than its pre-pandemic February 2020 workforce of 208,000 full-service restaurant workers. Data from Square — a platform that processes credit card payments — also shows that in the District, wages and earnings continue to grow for workers, including tips.¹⁰

- 3 | The National Restaurant Association's threat of increased service charges is backfiring.**

After the passage of I-82, the Restaurant Association of Metropolitan Washington, (RAMW) convened its members in informational webinars and encouraged them to switch from tips,

which are the sole property of workers, to service charges, which are the property of owners.¹⁴

This tactic of obfuscating the two-tier wage system, punishes workers, customers, and voters. It has received significant pushback from both consumers and the DC Attorney General, who are both demanding that truth-in-pricing rules be upheld. As a recent lawsuit by Travelers United against Clyde's Restaurant Group in Washington, D.C. shows, restaurants who attempt to separate the service costs of a meal from the item price continue to face legal challenges and customer pushback.¹⁵ In addition, the United States Federal Trade Commission has issued a new proposed rule on junk fees that includes a prohibition on mandatory service charges, in response to this attempt to confuse consumers.¹⁶

More Maryland Workers Support One Fair Wage Than Any Group Previously Polled

The subminimum wage for tipped workers is a direct legacy of slavery, created after Emancipation to allow restaurant owners the ability to hire newly-freed Black workers – women in particular — and force them to rely on tips.¹⁷ Codified into law in 1938 as part of the New Deal, the subminimum wage for tipped workers continues to affect a workforce that is still overwhelmingly women and disproportionately women of color who largely work in casual restaurants and bars, struggling with the highest rates of poverty and sexual harassment of any industry in the United States.¹⁸ Seven states had always required a full minimum wage with tips on top — California, Oregon, Washington, Nevada, Montana, Minnesota, and Alaska — and have the same or higher restaurant industry growth rates, tipping averages, and small business growth rates as Maryland and the 43 states that have persisted with a subminimum wage for tipped workers.¹⁹

With the pandemic, there has been a new surge in support for ending this legacy of slavery. Reporting that they faced great challenges in receiving unemployment insurance due to their low wages, and that their tips declined and harassment increased, 1.2 million workers left the restaurant industry nationally, and 20,000 workers left the MD restaurant industry.²⁰ In response, thousands of restaurants nationally have raised wages to recruit staff and this marketplace upheaval has driven greater demand for policy change that will allow workers to afford to work in restaurants.²¹

Given these conditions, both pre-and post-pandemic, tipped workers surveyed by One Fair Wage across the United States have consistently supported being paid at least the full minimum wage with tips on top. On January 17, pollster Celinda Lake released a summary of polls on the issue of raising wages and ending the subminimum wage for tipped workers over the last several years and also detailing the polling landscape ahead of the 2024 election. The memo stated “2024 promises to be a very tough election cycle” and “wherever you look, public polls in 2024 will show that inflation and the cost of living are the top issues on voters’ minds.”²²

Recent polls of voters of color and youth have confirmed that the cost of living is the top issue on voters’ minds. Lake referenced a November 2023 by Tuft University’s CIRCLE early poll of youth (ages 18–34) ahead of the 2024 presidential election, young people indicated clearly that

their primary concern is the economy. Over half (53 percent) chose the cost of living/inflation among their three top issues, followed by jobs that pay a living wage (28 percent).



MSNBC published the results of a poll conducted by UnidosUS and Mi Familia Vota, who asked 3,037 Latinos to pick the most important issues for Congress to address. Inflation and the rising cost of living were named by 54 percent of Latinos and jobs and the economy came in second (44 percent).²³

These and other recent polls indicate that there is a ‘Raise the Wage Voter Bloc’ — voters who will turn out to vote if wage increases are on the ballot and who will vote for candidates who support wage increases, and not for those who do not. There is only one policy solution to the rising cost of living: putting more money in people’s pockets, such as through SB 160.

This voter bloc also includes tipped workers; polling shows they consistently support ending the subminimum wage. Lake’s memo outlined that “contrary to restaurant industry attacks, Lake Research Partners has also consistently found very strong support for proposals to raise the tipped minimum wage among restaurant workers across a diverse set of states.” This included re-search polling of restaurant workers in:

- **New Hampshire**, in April 2021, 75 percent of workers supported \$15 with tips on top,
- **Maine**, in April 2021, 78 percent support from workers
- **Delaware**, in April 2021, 85 percent support among workers
- **Washington, DC**, in September 2021, 88 percent among support
- **New York**, in December 2019, 88 percent support among support

However, no group of workers polled has ever reported as high levels of support as Maryland tipped workers in 2024. Compared to these previous polls and other surveys, nearly all 96 percent of Maryland tipped workers surveyed in late 2023 and early 2024 reported supporting a policy to require them to be paid a full minimum wage with tips on top.²⁴ This should not be surprising given high levels of wage theft and poverty, national momentum showing successful implementation of the issue including in Maryland and neighboring Washington, DC, and significant, successful pushback against oppositional tactics to confuse consumers on the issue.

1

Maryland Tipped Workers Report Earning Less Than the Minimum Wage in Wages and Tips

Only 43 percent of restaurant workers surveyed by One Fair Wage stated they believed that their tips and base pay always brought them to at least the full minimum wage. While 23 percent told One Fair Wage they believed they had experienced wage theft. The remaining 33 percent were unsure.²⁵

The fact that Maryland tipped workers regularly do not receive the full minimum wage in wages and tips is a portion of the overall experience of wage theft that tipped workers experience as a result of the complicated two-tiered wage system that robs workers of their wages and creates liability for employers. The US Department of Labor reported an 84 percent violation rate with

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Baltimore Sun Staff

In November, this sign, posted at the front counter of Charm City Buffet and Grill in Parkville, Baltimore County, told customers that servers "work for tips only." The sign was later removed.

regard to employers complying with the rules surrounding the two-tiered wage system for tipped workers.²⁶

More recently, a columnist at the Baltimore Sun found a restaurant openly admitting to not paying a base wage at all and workers were forced to rely entirely on tips.²⁷ As the Sun indicated, since the subminimum wage in Maryland is so low, workers often experience it as negligible, negated entirely by taxes, and this experience results in some employers offering workers no wages at all — only tips. As long as the subminimum wage for tipped workers exists, workers will be subject to this kind of exploitation.

This is particularly problematic given that Maryland tipped workers are overwhelmingly constituted by the most marginalized demographic groups in the state. Nearly two-thirds (65 percent) of all tipped workers are women, and nearly half (47 percent) are people of color. Tipped restaurant workers also use food stamps 15 percent more than the general Maryland workforce.²⁸

TABLE 1 Gender of Maryland Tipped Workers

	All Restaurants	% of All Restaurants	Tipped Restaurants	% of Tipped Restaurants	All Tipped	% of All Tipped
Men	8,8438	45.02%	27,771	37.99%	33,527	34.52%
Women	10,8019	54.98%	45,327	62.01%	63,598	65.48%

Source: OFW analysis of American Community Survey data, 2017–2021 5-Year Sample.²⁹

TABLE 2 Race of Maryland Tipped Workers

	All Restaurants	% of All Restaurants	Tipped Restaurants	% of Tipped Restaurants	All Tipped	% of All Tipped
White	9,4549	48.13%	39536	54.09%	51,183	52.70%
Black	5,4872	27.93%	18094	24.75%	26,109	26.88%
American Indian or Alaska Native	781	0.40%	355	0.49%	429	0.44%
Chinese	4,710	2.40%	1247	1.71%	1790	1.84%
Japanese	59	0.03%	19	0.03%	37	0.04%
Other Asian or Pacific Islander	10,493	5.34%	3855	5.27%	5971	6.15%
Other Race, nec	19,010	9.68%	5138	7.03%	6145	6.33%
Two Major Races	10,785	5.49%	4499	6.15%	4904	5.05%
Three or more Major Races	1198	0.61%	355	0.49%	557	0.57%
Not Person of Color	94,549	48.13%	39,536	54.09%	51,183	52.70%
Person of Color	101,908	51.87%	33,562	45.91%	45,942	47.30%

Source: OFW analysis of American Community Survey data, 2017–2021 5-Year Sample.³⁰

National Momentum For One Fair Wage Grows, With Successful Implementation in Washington, DC

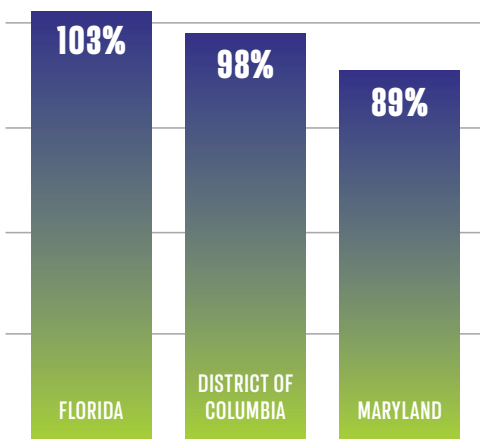
Given the post-pandemic moment of worker leverage, in which the industry staffing crisis has led thousands of employers to raise wages to recruit staff, One Fair Wage — policy to require a full minimum wage with tips on top — is gaining momentum across the country. One Fair Wage passed in Washington, DC in November 2022 with 75 percent of the vote, and then also passed in the Chicago City Council with a vote of 36-10 in November 2023. In 2024, 12 states have bills and ballot measures to raise wages and end the subminimum wage for tipped workers, including 4 states where polling shows it will pass on the ballot in November 2024 — Michigan, Ohio, Arizona, and Massachusetts.

In Washington, DC, Initiative 82, requiring a full minimum wage for tipped workers with tips on top, passed by nearly 75 percent on November 8, 2022.³¹ The initiative's implementation began on May 1, 2023, when the subminimum wage increased from \$5.35 per hour to \$6.00, and an additional increase on July 1 from \$6.00 per hour to \$8.00.³²

In November 2023, One Fair Wage released a report on the state of the restaurant industry in the District of Columbia one year after that historic vote.³³ The report found that one year later, workers' wages and earnings including tips had increased by 6 percent, the number of restaurant jobs had increased by 7 percent, and the number of establishments in the District of Columbia had increased by 10.7 percent from November 1, 2022, through October 31, 2023.³⁴ While there is no evidence that the initiative caused these increases, this data provides overwhelming evidence that the restaurant industry and workers' tips have not declined with the increase of tipped workers' wages.

FIGURE 2

Full-Service Restaurants Workforce December 2023 As A Percentage Of Pre-Shutdown Employment Levels



Source: U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis, All Employees: Leisure and Hospitality: Food Services and Drinking Places in Florida, Maryland, and the District of Columbia.^{41,42,43}

More recent data as of January 2024 shows that the Washington, DC restaurant industry continues on the same upward trend. More importantly, the most recent data as of December 2023 from Square — a platform that processes credit card payments — shows that Washington, DC tipped workers' earnings continue to grow compared to the prior year. Square reported that base pay rose 3.67 percent and total earnings, which include tips, increased by 4.64 percent year-over-year for December 2023.³⁵

As mentioned, DC is part of a national trend of localities and states passing policy to raise service workers' wages. Voters in Florida approved a ballot measure in 2020 that increased the subminimum wage for tipped workers from \$5.54 an hour to more than double that rate to \$11.98 an hour by 2026. Florida's current subminimum wage is \$8.98 per hour.³⁶ This is an increase of \$3.44 over the last three years, compared to the District of Columbia's recent increase of \$2.65.³⁷

Since the passage of this bill, the number of full-service restaurant jobs in Florida has not only increased; Florida also has more restaurant jobs as of December 2023 than it did prior to the pandemic. Florida's workforce is up 3 percent (26,400

more workers in the industry than in February 2020), compared to Maryland which still is 11 percent behind its pre-pandemic shutdown levels (23,200 restaurant workers).^{38,39} The latest monthly jobs numbers for 'All Employees: Leisure and Hospitality: Full-Service Restaurants' in the District of Columbia is the highest monthly employment number for the industry in Washington, D.C. since the start of the shutdowns from the pandemic and is back to 98 percent of pre-pandemic levels (29,300 jobs reported for December 2023 and 30,000 jobs in February 2020).⁴⁰

While a direct correlation is difficult to quantify between raising wages and restoring the restaurant workforce to pre-pandemic levels, it is clear that places currently raising wages for tipped workers are outpacing Maryland's restaurant industry's recovery.

3

The National Restaurant Association's Threat of Increased Service Charges is Backfiring

After the passage of I-82, the Restaurant Association of Metropolitan Washington, (RAMW), a chapter of the National Restaurant Association, convened its members in informational webinars and encouraged them to switch from tips, which are the sole property of workers, to service charges, which are the property of owners.⁴⁴ They encouraged DC restaurants to use a portion of the service charge (paid by customers in lieu of a tip) to cover the cost of the I-82 wage increase. Following these actions, media outlets have reported on service fees, and the National Restaurant Association even surveyed establishments and stated that 17 percent of full dining establishments they surveyed use some kind of service fee.⁴⁵



These actions by RAMW resulted in enormous consumer outrage in DC as a result of their confusion as to whether or not to tip on top of the service charge, since employers were not clear as to whether they were passing on the service charge to workers like a tip or keeping the funds for themselves — and if so, what portion of the funds.⁴⁶ In response, outraged consumers called out restaurants online for using confusing or misleading language on their menus with regard to the service charge.⁴⁷

As a result, the Attorney General of the District of Columbia issued guidance, publicly endorsed by the Restaurant Association of Metropolitan Washington, reminding restaurants that they have an obligation to disclose how they are using the service charge — whether they are passing on the service charge to workers as a tip, or using it to cover their own costs, including labor costs.⁴⁸

More recently, prominent DC restaurants have been sued for these misleading actions. The prominent consumer group Travelers United has filed a lawsuit against both Clyde's Restaurant Group and KNEAD Hospitality in Washington, D.C.⁴⁹ Travelers United describes the service charges as “price deception,” and believes they violate truth-in-pricing rules. The complaint states that “these function as restaurant resort fees, a total junk fee where the consumer gets nothing other than a deceptive advertised price.”⁵⁰

Most importantly, in response to all of these actions, the United States Federal Trade Commission (FTC) has included in its new proposed rule on junk fees a prohibition on mandatory service charges, calling them ‘junk fees.’⁵¹

The Maryland Restaurant Association has attempted to claim that proposed legislation to end the subminimum wage for tipped workers would force employers to use service charges, which would hurt consumers and workers, reducing their tips.⁵² However, it was the Maryland Restaurant Association’s parent organization itself (the National Restaurant Association) that encouraged restaurants to use the service charge model, with incredible pushback from consumers, litigation by consumer groups, prohibitory guidance from the DC Attorney General, and a new proposed FTC rule outlawing mandatory service charges altogether. Furthermore, as shown in the previous section, DC consumers continue to tip and workers’ earnings, including tips and wages, have increased since the passage of I-82 in Washington, DC. Thus, these attempts to threaten legislators, consumers and workers with service charges have ultimately only hurt the Restaurant Association’s restaurant employer members themselves.



CONCLUSION

Multiple recent 2024 voter polls have shown that the top two issues for young voters and voters of color are the ‘rising cost of living’ and ‘jobs with living wages.’^{53,54} Across the country and in Maryland, more and more workers are demanding higher wages from their employers and from their elected officials and candidates to cover the inflationary pressures they are facing in their communities.

This demand for wages that cover the cost of living from workers and voters has resulted in more and more cities and states passing legislation requiring a full minimum wage with tips on top nationwide, and a historically high level of demand from tipped workers for One Fair Wage policy in Maryland itself. To succeed in November 2024, Maryland electeds and candidates should follow the heed of this overwhelming majority of workers and a growing chorus of small business restaurant employers calling for policy to end this legacy of slavery once and for all.

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