

ONE FAIR WAGE

THE KEY TO SAVING THE NEW YORK STATE RESTAURANT INDUSTRY POST-COVID 19



THE SUBMINIMUM WAGE for tipped workers is 66 percent of the overall minimum wage and ranges from \$8.35-10.40 an hour in the state of New York.

A direct legacy of slavery, the subminimum wage impacts a workforce of nearly 330,000 tipped workers that is 58 percent women and 49 percent people of color, and an overall restaurant industry of over 625,000 workers in New York.^{1,2} While some tipped workers in New York received One Fair Wage at the end of 2019 (nail salon workers and car wash workers among others), restaurant workers, who constitute the majority of tipped workers, were left out. This majority-female workforce continues to suffer higher rates of sexual harassment and economic hardship as a result.

1 How One Fair Wage Will Help the Restaurant Industry

The One Fair Wage Bill offers a legislative pathway to support both restaurant workers and small business restaurant owners. The bill will do the following:

- Phase out subminimum wages for tipped workers in the restaurant industry over five years.
- From that point onwards, employers would not be allowed to pay tipped workers less than the full minimum wage.³
- Enable tip-sharing with back of the house positions, such as cooks and dishwashers.
- Incentivize and support small business restaurants who have already transitioned to a full minimum wage with tips on top for all workers, given the staffing crisis, or seek to transition within 6 months of bill passage, by providing \$50 million in forgivable loans.
- Codify the phasing out of the subminimum wage for all other tipped and miscellaneous workers.

2 The Subminimum Wage Is a Legacy of Slavery

- ◆ After Emancipation, the restaurant industry sought to hire newly freed Black people without paying them, forcing them to live on tips.⁴ This concept was made law, excluding a workforce of mostly Black women from the full minimum wage, even when other workers received the federal minimum wage as part of the New Deal in 1938.⁵
- ◆ Today, New York remains one of 43 states that persists with this legacy of slavery, and has allowed a workforce that is overwhelmingly women and disproportionately women of color to continue to receive a subminimum wage 150 years since Emancipation.⁶

3 The Subminimum Wage Was Always a Source of Economic, Race and Gender Injustice

- ◆ The subminimum wage for tipped workers was a problem long before the pandemic for a workforce of several hundred thousand tipped workers in New York who are overwhelmingly women working in casual restaurants and bars.⁷
- ◆ These workers have struggled with twice the poverty rate of other workers and the highest rates of sexual harassment of any industry because they must tolerate inappropriate customer behavior to feed their families in tips.^{8,9}
- ◆ New York has an hourly wage gap of nearly \$8 an hour between Black women and white men tipped workers, which is among the highest rates of racial disparity among tipped workers of any state in the U.S. Forcing this workforce to rely on tips rather than a full base wage subjects them to customer bias in tipping, resulting in this wage gap.¹⁰

4 New York Voters Support One Fair Wage

- ◆ According to recent polling, nearly 80 percent of New York voters said they would support a bill that eliminates the subminimum wage and requires employers to pay tipped workers a full minimum wage.¹¹
- ◆ This support comes from both sides of the aisle, with 63 percent of Republicans and 88 percent of Democrats in agreement that it is time to pass One Fair Wage.¹²

5 Eight States are Faring Better with One Fair Wage

- ◆ For decades, 7 states have done it differently: CA, OR, WA, NV, MT, AK and MN all require a full minimum wage with tips on top.¹³ Michigan has just been added to this list.

- ◆ These states have higher restaurant job growth rates, small business growth rates, and tipping averages than New York; they also have one half the rate of sexual harassment in the restaurant industry and lost fewer restaurants during the pandemic than New York.^{14,15}

6 The Pandemic Made the Subminimum Wage a Matter of Life and Death

- ◆ With the pandemic, the subminimum wage for tipped workers changed from an economic, race and gender injustice to one of life and death.
- ◆ Six million restaurant workers lost their jobs with the pandemic shutdown in March 2020. Nearly half a million workers in New York who lost their jobs were in the restaurant industry, but 10 percent of restaurant workers reported they couldn't access unemployment benefits because they were told their subminimum wage was too low to qualify for benefits.¹⁶
- ◆ Hundreds of thousands of tipped workers have since gone back to work, but nearly 57 percent of New York workers report their tips have decreased by at least half because sales were down.¹⁷
- ◆ Meanwhile, customer hostility, health risks and harassment increased, with women tipped workers being asked to remove their masks so men could judge their looks and their tips on that basis.¹⁸
- ◆ Tipped workers were put in the impossible situation of having to enforce COVID protocols on the same restaurants from whom they had to get tips to survive.

7 The Wage Shortage: Workers are Refusing to Work Without One Fair Wage

- ◆ As the pandemic drove tips down and harassment up, and wages have been in decline due to inflation, restaurant workers have responded by leaving the industry — to date, over 50,000 workers have left the industry in New York.¹⁹
- ◆ 50 percent of those who remain in the New York restaurant industry reported that they are considering leaving; 90 percent say the only thing that will make them stay or return to working in restaurants is a full livable wage with tips on top.²⁰

8 Hundreds of New York State Restaurants Are Now Paying One Fair Wage

- ◆ As a result of this exodus, we've documented 4,000 restaurants nationally and nearly 600 in New York who are now paying One Fair Wage to recruit staff.²¹
- ◆ Many of these independent restaurants have joined forces with workers to call for One Fair Wage policy for two reasons:
 - 1) they say they need a level playing field, and
 - 2) they say they need policy to send a signal to millions of workers that these are permanent wage increases and it's worth coming back to work in restaurants.²²
- ◆ With 50 percent of workers who remain saying they're leaving, New York restaurants are not able to fully reopen unless we pass One Fair Wage.²³



Thousands of New York tipped workers are leaving the restaurant industry and are not willing to return without One Fair Wage, a majority of voters support raising wages for tipped workers, and hundreds of New York employers are now paying One Fair Wage to recruit staff and seek a level playing field — the time to pass One Fair Wage is now.

1 OFW analysis of American Community Survey data, 2016–2020 5-Year Sample. Steven Ruggles, Sarah Flood, Ronald Goeken, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 12.0 [dataset]. Minneapolis, MN: IPUMS, 2022. <https://doi.org/10.18128/D010.V12.0>.

2 U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis. (May, 2022). All Employees: Leisure and Hospitality: Food Services and Drinking Places in New York. <https://fred.stlouisfed.org/series/SMU3600000707220000ISA>.

3 Not limited to, car wash attendants, nail salon workers, tow truck drivers, dog groomers, wedding planners, tour guides, valet parking attendants, hairdressers, aestheticians, golf and tennis instructors, and doorpersons, makes related provisions.

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12 *Ibid.*

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14 *Ibid.*

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17 Upstate NY Food Service Workers Experience of Health and Harassment During COVID-19 (December 2020). One Fair Wage. https://onefairwage.site/wp-content/uploads/2020/12/OFW_COVID_WorkerExp_UNY.pdf.

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